

June 26, 2023

Eau Claire County Board of Supervisors  
Eau Claire County Government Center  
721 Oxford Ave  
Eau Claire, WI 54703

Via Hand Delivery

Re: Eau Claire Sheriff's Office Investigation into the  
Eau Claire County Department of Human Services

Dear County Board Supervisors,

Enclosed please find a copy of von Briesen & Roper, s.c.'s "Internal Non-Criminal Investigation Analysis and Report" regarding the Eau Claire Sheriff's Office Investigation into the Eau Claire County Department of Human Services.

After the report was finalized last Friday, a copy was provided to County Administrator Schauf to allow her the opportunity to augment the report so as to expedite its release to the public. Ms. Schauf waived formal notice of her right to augment and provided one augmentation, which has been noted on page 50 of the report. (Ms. Schauf was present for the joint meeting that occurred on May 20, 2019.) In the interests of transparency, Corporation Counsel Sharon McIlquham has waived the attorney client privilege as to any legal advice provided in this report.

Please direct any public record requests for a copy of this report to Corporation Counsel McIlquham.

Very truly yours,

von BRIESEN & ROPER, s.c.



Mindy K. Dale



Joseph M. Russell



Victoria L. Seltun

cc: Sharon, McIlquham, Corporation Counsel

Enclosure

**Eau Claire Sheriff's Office  
Investigation into Eau Claire County  
Department of Human Services**

**Internal Non-Criminal  
Investigation Analysis and Report**

By von Briesen and Roper, s.c.

June 23, 2023

## Table of Contents

<b>I. Timeline.....</b>	<b>5</b>
<b>II. Wipfli Report .....</b>	<b>7</b>
<b>III. Issues/Allegations - General .....</b>	<b>10</b>
A. County Procedures relating to hiring of outside counsel.....	10
B. Alleged Interference with ECCSO's Investigation.....	12
<b>IV. Allegations/Issues Relating to Administration .....</b>	<b>18</b>
A. Allegation: Administration unduly delayed contacting law enforcement regarding Zer Smith theft. ....	18
B. Allegation: Administrator Schauf did not answer truthfully when asked by Sheriff Cramer why the Zer Smith criminal complaint was referred to the Eau Claire Police Department instead of the Sheriff's Office. ....	24
C. Allegation: Administration failed to refer other issues to law enforcement for criminal investigation.....	26
D. Allegation: Edits were made to a draft of the October 2019 CLA report to remove a paragraph on County fiscal processes.....	27
E. Allegation: Lack of transparency when providing information to County Board members. ....	30
a. Not creating or providing records at Board Member's requests.....	30
b. Framing the narrative for and during Board and other meetings. ....	30
<b>V. Issues/Allegations Regarding DHS and Zer Smith Theft .....</b>	<b>31</b>
A. Discussion of whether Zer Smith thefts were from levy or state funds. ....	31
B. Allegation: Director Cable made misrepresentations to the State, to the DHS Board, to the County Board and to County Administrator Schauf involving the Zer Smith matter. ....	32
a. Allegation: Director Cable failed to answer truthfully when she was asked if she had notified the State about the theft by Zer Smith. ....	33
b. Allegation: Director Cable failed to provide Administrator Schauf with information she received from State officials discussing the possibility of having a forensic audit performed. ....	34
c. Allegation: Director Cable made misrepresentations in January 29, 2021, letter to the State.....	35
C. Allegation: Figures on Zer Smith loss were different in several email communications found in the ECCSO investigation.....	36
D. Allegation: DHS failed to follow-up when three of seven P-cards used by Zer Smith were closed because of fraud. ....	37

<b>VI. Issues/Allegations Regarding DHS Finances .....</b>	<b>38</b>
A. May 2020 report of 2019 year-end financial status reporting error... ..	38
B. Perception that DHS spends levy dollars while it waits for reimbursement from the State and then does not return the levy dollars to the County when it is reimbursed.....	39
C. Allegations of conflicting financial information being provided; accounting errors.....	39
a. Alleged inaccuracies in financials. ....	39
b. Joxel Hotel Expenses.....	40
c. Account number discrepancies or dollar amount discrepancies in DHS reimbursement deposits. ....	41
d. Discussion of buying lunch for training out of CCS funds.....	41
D. Failure to take sufficient action to eliminate the risk of fraud in DHS... ..	41
a. Failure to implement the recommendations in “DHS SPARK Program ‘P-Card’ Final Report.” .....	41
b. Failure to audit and provide safeguards to prevent theft of items in DHS safe. ....	42
c. Failure to move DHS Fiscal into the County Finance Department under the Finance Director.. ....	43
d. DHS did not have a good procedure for monitoring P-cards, expenses or vouchers.... ..	43
e. Alleged deactivation of safeguard to prevent budget overage. (p. 35 of ECCSO report) .....	43
f. Suspected fraud in reporting Children’s Long-Term Support (CLTS) billable hours. ....	44
g. Potential misuse of electronic signatures. ....	44
E. DHS Spending Practices.....	45
a. Allegation: DHS does not follow fiscal policy to buy least expensive items available to meet needs of the department or a client. ....	45
b. Allegation: DHS spends money without determining measurable outcomes. Example: Trinity Equestrian (told outcome was “good.”) WIPFLI audit found payments made without invoices and discrepancies between amount paid and invoice amount... ..	47
c. Allegation: DHS is not conservative with their spending when they are already over budget .....	48
i. Upgraded Airfare and Hotel Stays .....	48
ii. Single Hotel Rooms .....	49
iii. 30 rooms were booked at the Hyatt Regency in Minneapolis on 04/23/19 for an ALIA training for 30 people .....	49

iv.	Four DHS employees (Tom Wirth, Steve Nelson, Wendy Chestnut, and Vickie Gardner attended a conference in Washington, D.C. on 5/16/19 to 5/18/19, with total hotel costs of \$4,866.78 .....	49
v.	Unbudgeted donation to Homeless Initiative .....	50
<b>VII.</b>	<b>Lack of Transparency with County Regarding ALIA .....</b>	<b>50</b>
A.	Financial Impact of Change .....	50
B.	Alleged misrepresentation to Board on cost of ALIA. ....	51
C.	Payments made to ALIA for services rendered.....	52
D.	Allegation of hiding payment to ALIA .....	52
E.	Allegation of failing to mitigate losses by contracting with ALIA. ....	53
F.	Check issued to Director Cable by ALIA .....	53
<b>VIII.</b>	<b>Additional Allegations Against DHS Director Cable .....</b>	<b>54</b>
A.	Director Cable traveled to a conference in Washington, D.C. in April 2019 and Hyatt reward points were associated with this stay... ..	54
B.	Allegation: During the June 16, 2020, County Board meeting, Director Cable misrepresented that Eau Claire County has the second highest poverty rate in Wisconsin. ....	54
C.	Allegation: Director Cable did not complete the travel forms that other employees have to complete before hotel rooms were booked .....	55
<b>IX.</b>	<b>Ethics Issues.....</b>	<b>55</b>
<b>X.</b>	<b>Summary of Remedial Actions that have occurred to date .....</b>	<b>56</b>
<b>XI.</b>	<b>Additional Recommendations .....</b>	<b>58</b>
<b>XII.</b>	<b>Action Items for Administration .....</b>	<b>58</b>
<b>XIII.</b>	<b>Action Items for County Board Committees .....</b>	<b>59</b>
<b>XIV.</b>	<b>Conclusion .....</b>	<b>60</b>

June 23, 2023

### **Eau Claire Sheriff's Office Investigation into the Department of Human Services**

In May of 2020, two County Board Supervisors met with former Sheriff Ron Cramer to lodge a complaint regarding concerns they had about the fiscal operations of the Department of Human Services (DHS). Upon receipt of the complaint, former Sheriff Ron Cramer assigned a Detective and a Deputy to investigate the concerns raised. The Eau Claire County Sheriff's Office (ECCSO) executed criminal search warrants on the County Administrator, DHS and IT in October of 2021. Thereafter, the Committee on Administration authorized von Briesen & Roper, s.c.'s (von Briesen) appointment as outside counsel on November 1, 2021, to represent County leadership (Board and Administration) and DHS because of Corporation Counsel's potential conflict of interest in regards to the Sheriff's Office Investigation of DHS, its staff and its vendors. We did not, and do not, represent any employees in an individual capacity.

More specifically, von Briesen was retained to help facilitate communications with ECCSO and other County departments to allow for the completion of the ECCSO's criminal investigation with the least possible disruption to the County, in compliance with privacy laws and regulations. This included working with WIPFLI, the accounting firm hired by the ECCSO to do a forensic audit, so they were able to extract, understand and interpret the data they obtained electronically when search warrants were issued by the ECCSO to various County departments. We also reviewed background information and prepared a timeline to better understand the issues and history prior to our involvement.

During the course of the investigation, the ECCSO periodically provided us with verbal summaries of their investigation findings (via a PowerPoint), to help us understand what additional information they were seeking to "fill the gaps" and to allow us to identify potential personnel and policy issues that may need to be addressed before their investigation was complete. This was a careful balance because we did not want to do anything that would impede the ECCSO investigation or otherwise compromise its integrity. We were given only a few select documents by the ECCSO during this process.

Let us state clearly from the outset that while we noted some potential performance concerns, at no time did we learn anything which would have prompted us to recommend that any employees be put on paid administrative leave pending the completion of the investigation.

von Briesen provides legal services to Eau Claire County on general labor and employment matters outside of its specific engagement related to the ECCSO/DHS investigation. Any of von Briesen's services directed towards addressing any potential personnel, ethical, and policy issues identified during the internal non-criminal investigation that went beyond the scope of its special engagement have and are being billed to a separate general employment file, just as von Briesen bills its work to assist the County in other personnel matters. (Attorney Mindy Dale discussed this with the Committee on Administration when she provided the Committee with an update in June 2022.)

In September of 2021, Attorney Mindy Dale was asked by Administrator Schauf and Human Resources Director Jessica Rubin to conduct a very narrow personnel investigation into whether there was a culture within DHS where employees were inhibited from communicating concerns with management and related issues. Up until that time, Attorney Dale had not been involved in, or apprised of, any aspect of ECCSO's investigation into DHS. A portion of the information gathered by Attorney Dale at that time has been incorporated into this report where appropriate.

On November 17, 2022, ECCSO apprised us they had completed their investigation, although they were still awaiting the finalization of Wipfli's report regarding its forensic audit. Thereafter, we were able to proceed with our internal non-criminal investigation and analysis based on the initial information we received. ECCSO had provided us with copies of the PowerPoint slides they had previously presented to us and some of the documents referenced within those PowerPoint slides (1,051 in total). The PowerPoint slides and documents were not in any chronological order, were not organized by identifiable topic matter, and were oftentimes repetitive regarding content. It took us a considerable amount of time to put the documents in a logical topical order and to separate out issues that were minor in nature, so we could conduct effective investigatory interviews. We then used these documents to interview individuals we felt were subjects of the investigation as part of an internal non-criminal investigation. These interviews were conducted in January 2023. Additional documentation was requested from these individuals as follow-up. While we were not able to conclude our investigation until after the ECCSO's criminal investigation was concluded, we wanted to remain proactive in identifying policy changes and/or personnel issues.

The purpose of the internal non-criminal investigation was to collect and analyze facts surrounding the allegations brought to our attention by the ECCSO and to make recommendations regarding personnel, policy or other remedial measures. During a criminal investigation, an individual being interviewed has the constitutional right to refuse to answer a question on the grounds it may incriminate them. In a non-criminal investigation, an employee can be compelled to answer questions by giving them a "Garrity Warning," described as follows:

The individual is advised that they must truthfully and completely respond to all questions relating to the performance of their duties for Eau Claire County and their failure to respond completely and truthfully to such questions could constitute insubordination and grounds for termination of their employment. The County may also be permitted to draw adverse inferences from their refusal to truthfully and completely answer questions. Based on that understanding, nothing the individuals said during these meetings in response to questions asked, nor the fruits of their statements, could be used against them in any later criminal proceedings.

Therefore, it was necessary for us to wait until after the criminal investigation was completed for us to conduct any intensive interviews of certain individuals so as not to taint or interfere with the ECCSO's criminal investigation.

On Friday, March 31, 2023, the La Crosse County District Attorney, to whom the criminal matter had been referred due to perceived conflicts of interest, issued his response finding “no facts that were deserving of a criminal offense.” At that point, we were given access to the 443-page summary report which the ECCSO had provided to the La Crosse District Attorney. Forty-four (44) pages of the summary report was a report completed by WIPFLI and its attached exhibits (“Wipfli Report”). A copy of the applications and supporting affidavits for each of the search warrants issued in this matter, which had previously been sealed, also were released to the public by the Eau Claire County Clerk of Court on March 31, 2023.

On Thursday, April 5, 2023, the ECCSO posted the Wipfli Report to its website, without any redactions.

Pursuant to Wisconsin Public Records laws, statutory notice was provided to certain individuals named in the ECCSO’s report prior to its release, certain portions of the report were redacted, and current local public officials (department heads and elected officials) were given the opportunity to augment the report. While time consuming, this was a necessary process that occurred cooperatively between Sheriff Riewestahl and Corporation Counsel, with our assistance.

On Friday, May 30, 2023, after required redactions and notice was given to certain individuals named in the remaining portion of the ECCSO report, it was posted on the ECCSO website.

On June 6, 2023, Sheriff Riewestahl was informed that it was possible for members of the public to bypass the redactions in the DHS Investigation Report that the Sheriff’s Office had posted. The report was removed from the website and replaced with one prepared by our office which secured the confidential information. We also prepared letters to be sent out by Corporation Counsel to a DHS client and five other individuals to apprise them of the potential breach of their confidential information.

Below is a list of issues and/or allegations which we analyzed. These included items found in the ECCSO’s summary report and additional concerns brought to our attention during the course of the ECCSO investigation which may not have been included in their final report. Because we began our analysis before receiving the ECCSO’s final report, the topics/allegations below do not track in the same order as found in the “Investigative Findings” listed on the final pages at the end of the ECCSO final report or elsewhere in their report, nor have we addressed all of them. References to the ECCSO’s allegations are in italics. (i.e. “ECCSO *‘Investigative Findings: ‘. . .’*”).

We believe the ECCSO “Investigative Findings” include a number of assumptions or assertions not grounded in fact or based on a misunderstanding of the information the ECCSO collected. Stated differently, the ECCSO frequently made unwarranted inferences that were not factually supported. It became clear to us through the course of the ECCSO’s investigation that the primary targets of the criminal investigation were Human Services Director Diane Cable and County Administrator Kathryn Schauf. After we advised them of such, they retained their own attorneys at their own expense.

Human Services Director Diane Cable and County Administrator Kathryn Schauf chose to have these attorneys present when we conducted our internal non-criminal interviews with each of them. They were



both cooperative with us and provided us with additional documentation at our request as follow-up to our interviews.

This report is not intended to go beyond the scope of the ECCSO investigation and we did not analyze every minute detail in the 443-page report. If this report does not address a specific concern raised in the report, it does not necessarily mean that the specific concern was warranted or had merit.

While some commentary regarding the ECCSO's investigation is included in this report, we did not conduct an internal investigation into the actions taken by the Sheriff's Office during their investigation, including any controversy surrounding the execution of the search warrants, or the actions of County Board Supervisors (excepting for one ethics issue).

However, government entities conducting criminal investigations are not allowed to review and use privileged material. This rule is relatively easy to enforce when the government requests documents by subpoena, in which case the target can withhold documents claimed to be privileged. The government can then challenge such claims, and the court can decide the dispute by in camera review of the documents. But when the government seizes material pursuant to a warrant, the government oftentimes obtains protected material immediately. Special care is needed to ensure that government review of that material does not violate the privilege protecting attorney-client communications.

Here, by executing an overbroad warrant on Administration, DHS, and ECCIT, the ECCSO seized attorney-client communications between administrators and corporation counsel. These communications were clearly privileged, as they contained legal advice offered by corporation counsel regarding the ECCSO's criminal investigation. However, the ECCSO failed to acknowledge the privilege, let alone respect it, such as conducting a filter process that involved the court (that granted the warrant) and outside counsel in segregating privileged communications and protected attorney work product. By doing so, the ECCSO appears to have knowingly violated attorney-client privilege of those individuals it was targeting. Furthermore, the ECCSO used these privileged communications to advance its criminal investigation against these individuals and to support its conclusions regarding them. Although Administrator Schauf and DHS Director Cable voluntarily decided to waive the privilege in the spirit of transparency, we recommend that the ECCSO receive training regarding the review of documents containing privileged documents in the course of a criminal investigation. Failure to respect privilege in the future could compromise the integrity of future investigations, render certain evidence inadmissible and expose the County to liability.

On June 13, 2023, we asked for and received verification from Sheriff Riewestahl, that all personal, business and government property was returned to the individuals and departments after the ECCSO scanned and processed it. We were told this occurred within 48 to 72 hours after the execution of the search warrants. We note; however, it was a week before sixteen (16) boxes of documents were returned to DHS. In addition, the staples had been removed from these documents, they were not put back in the same order, and receipts were detached in large piles. As time permits, DHS has been working for months to go through and reorganize these documents.

This report focuses on those issues which we believe an understanding of which will best move the County forward.

**I. Relevant Timeline**

May 2015	County Treasurer Larry Lokken is charged with embezzlement. The matter was investigated by the Eau Claire Police Department, in part because Sheriff Cramer and Mr. Lokken had been co-plaintiffs in a lawsuit they brought against Eau Claire County regarding their WRS contributions as a result of Act 10.
July 8, 2015	Kathryn Schauf begins her employment as County Administrator.
January 2016	Eau Claire Treasurer Larry Lokken sentenced to prison for embezzlement.
February 15, 2016	Diane Cable begins her employment as Director of Human Services.
November 7, 2016	Vickie Gardner begins her employment as DHS Fiscal Manager.
February 2018	<p>Family First Prevention Services Act (FFPSA) was enacted as part of the Bipartisan Budget Act (HR 1892), to turn the focus of the current child welfare program toward keeping children safe with their families to avoid the trauma that results when children are placed in out-of-home care. See:</p> <p><a href="https://www.childwelfare.gov/topics/systemwide/laws-policies/federal/family-first/#:~:text=1892)%2C%20which%20was%20signed%20in,out%2Dof%2Dhome%20care.">https://www.childwelfare.gov/topics/systemwide/laws-policies/federal/family-first/#:~:text=1892)%2C%20which%20was%20signed%20in,out%2Dof%2Dhome%20care.</a></p> <p>For information on implementation in Wisconsin, see: <a href="https://dcf.wisconsin.gov/family-first">https://dcf.wisconsin.gov/family-first</a>.</p>
June 25, 2018	Norb Kirk begins his employment as Finance Director.
August 30, 2018	A temporary employee working in the Finance Department, Susan O'Connor, is arrested for stealing close to \$20,000 from the County.
May 20, 2019	Dr. Amelia Franck-Meyer, CEO of Alia UnSystems Innovation makes a presentation to the Human Services Board, the Committee on Administration and the Committee on Finance and Budget on system changes which will be necessary for compliance with the Family First Prevention Services Act.
June 3, 2019	Greg Bowe begins his employment as City/County Purchasing Manager.

October 14, 2019	A DHS employee, Zer Smith is terminated by Eau Claire County for charging personal items on County Purchasing Cards (P-Cards). The purchases were made under the "SPARK" program.
January 2020	Eau Claire Police Department begins their investigation into additional acts of theft discovered by DHS Fiscal Staff.  Retired Eau Claire Police Department Officer Mike Voelker is hired to do a "Red Flag" analysis to assist Administration in identifying remedial measures.
January 31, 2020	Former temporary employee Susan O'Connor is sentenced for theft.
March 12, 2020	Governor Evers issues Executive Order #72, Declaring a Health Emergency in Response to the COVID-19 Coronavirus.
April 27, 2020	Retired Eau Claire Police Officer Mike Voelker emails his final "SPARK" report to Operations Manager Draxler.
May 26, 2020	DHS Director Cable informs the Human Services Board that a \$1.2 million projection error was made resulting in a budget overage for 2019 to be \$3.3 million instead of \$2 million.
May 29, 2020	Two County Board members meet with Sheriff Cramer and file a Complaint regarding the \$1.2 million projection error and how DHS handles its finances.  Sheriff Cramer begins criminal investigation into DHS.
June 10, 2020	Sheriff Cramer approves Mike Voelker to begin working for the ECCSO as a detective to do "consulting work" on a "confidential case."
July 1, 2020	Frank Draxler retires as Operations Manager (after 35+ years with the County).
August 11, 2020	A criminal complaint is filed against Zer Smith.
September 22, 2020	County Administration and Human Resources begin consultation with attorneys from the Weld Riley law firm on issues associated with the ECCSO's requests to interview staff and obtain documents.
October 2, 2020	ECCSO executes its first search warrant to obtain documents in Minnesota from ALIA Innovations.

October 22, 2020	Sheriff Cramer sends out an email to all Eau Claire County Employees stating his office began conducting a criminal investigation into the Department of Human Services in May and invites employees to come forward if they feel they have information to assist them in the fact-finding portion of their investigation.
October 23, 2020	ECCSO retains Wipfli to conduct a forensic audit of DHS records.
Nov./Dec. 2020	Efforts at County Board level to have a forensic audit done of DHS accounts fails.
April 1, 2021	Eau Claire Sheriff's Office enters into a Business Associate Agreement (BAA) with Wipfli. The agreement is signed by Marc W. Courey, Director – Forensic & Litigation Services, in Wipfli's Minneapolis office.
September 3, 2021	A Plea Agreement is reached in the Zer Smith criminal case.
October 18, 2021	Eau Claire County Sheriff's Office simultaneously executes search warrants on the Administration office and DHS, and later in the day on IT.
November 1, 2021	von Briesen & Roper formally retained.
September 14, 2022	Sheriff Cramer passes away unexpectedly.
December 2022	ECCSO submits its investigation findings to the La Crosse District Attorney for consideration of criminal charges.
March 31, 2023	La Crosse District Attorney declines to issue charges. Search warrants filed with Clerk of Courts are unsealed.
April 5, 2023	ECSSO posts Wipfli's Report on its website.
May 10, 2023	DHS Human Services Director Diane Cable retires.
May 30, 2023	ECCSO's "Eau Claire County Department of Human Services Investigative Report" is posted on the ECSSO's website.

## **II. Wipfli Report**

Although we have not had the opportunity to see the engagement letter, we understand from Wipfli's report that the Sheriff's Office first retained Wipfli on October 23, 2020 to conduct a forensic audit of DHS records. A little over five months later, on April 1, 2021, the Sheriff's Office and Wipfli entered into a separate Business Associate Agreement (BAA) to ensure compliance with federal and state privacy laws and statutes in the course of Wipfli's forensic audit of DHS records.

Following the execution of the search warrant on October 19, 2021, Wipfli began to review the records and data the Sheriff's Office seized, including DHS' digital book of record, which is known as the ALIO database. However, Wipfli could not understand how to extract the data it wanted from the ALIO database.

On February 10, 2022, Wipfli requested a broad set of data requests regarding the ALIO database for the years 2017, 2018, 2019 and 2020. These requests included all data related to DHS' general ledger, vendors, disbursements, purchasing cards, receivables, employees and budgeting. For reference, these data requests are itemized in Exhibit B of Wipfli's Report.

In response to Wipfli's extensive data requests, von Briesen convened many meetings between February and May 2022 among WIPFLI, the County's IT department, Eau Claire's Finance Department, another vendor called CESA 10 (the contract administrator of the ALIO database) and DHS to help Wipfli extract all the data it wanted from the ALIO database. In particular, Vickie Gardner (DHS Fiscal Services Manager) assisted this process, as well as Finance Director Norb Kirk.

On November 30, 2022, based on this data extraction, WIPFLI completed its 16-page forensic-audit report.

WIPFLI's total bill for the report was \$252,629.58.

In December 2022, Wipfli's report was sent to the LaCrosse District Attorney for review.

On April 5, 2022, Wipfli's report was made publicly available, without any redactions, on the ECCSO's website.

Upon the release of Wipfli's Report, Finance Director Norb Kirk was asked to assist us in analyzing it. Accordingly, on April 21, 2023, Director Kirk met with Wipfli representatives Marc Courey and Matt Storlie to discuss the findings noted in their forensic report. At the start of the meeting, they informed Mr. Kirk that they would not be able to provide much more context or details not published in the report. They also noted that they were not engaged to look at processes or procedures and that this was not a "consulting" engagement. According to Wipfli, they were engaged to search for specific items and report their findings. They were not engaged to provide any opinion.

Director Kirk discussed the findings noted in the report with Wipfli. Director Kirk opined that for most of the findings, the lack of further investigation into the findings could lead the reader to an incorrect conclusion. In Director Kirk's opinion, the lack of further investigation and additional context hinders the usefulness of the report and the findings.

Director Kirk provided comments on Wipfli's key findings (located on page 16 of the Report), and where appropriate, noted any conversation he was able to have with Wipfli on those findings.

**Wipfli's Key Findings:**

- 1. There were two duplicate payments, 31 instances where an amount was paid that was different than the amount invoiced, and the average days from invoice date to payment date was 91 days in 13 checks paid to Trinity Equestrian Center in March, April and May of 2019.**

Director Kirk's Observations: This finding is confined only to Trinity Equestrian. I had conversations with DHS about the billing issues they were having with Trinity during the period in question, so I am not surprised by this finding. DHS was forced on many occasions to pay amounts different than the invoiced amount, because of the lack of adequate support and diligent invoicing practices by Trinity. The many issues with Trinity invoices led to the payments being processed later than would have been normal.

- 2. There were multiple vendor numbers set up for the same vendor name. Wipfli identified 123 payments and \$444,401.96 in spending recorded to vendors with the same vendor name, but a different vendor number.**

Director Kirk's Observations: It is not unusual for Eau Claire County to have vendors established with unique vendor numbers, but the same vendor name. The key element is that the vendor numbers are unique to their Tax Identification Number (TIN) and payment address. For example, the County has nine (9) vendor numbers for the State of Wisconsin, all with unique TINs.

When Director Kirk asked Wipfli when they ran across these payments if they checked to see if there were different TINs associated with the same vendor's name, they replied they had not and that it was not part of their engagement/scope of work. They did acknowledge that what I described was not unusual and that they had seen that before with other clients.

- 3. Wipfli identified 61 payments recorded to 23 different vendors, totaling \$24,728.96 in spending, where the payments were recorded in the same amount to the same vendor on the same day.**

Director Kirk's Observations: Without seeing the details, it is difficult to address this finding. It is possible that for vendors that provide the same specific service to multiple clients, that the payments would be the same contracted amount and could occur in the same payment batch. Director Kirk did ask when they ran across this if they looked to see if there were different client numbers noted and associated with the payments, and they said "no."

- 4. There were 3,269 accounts and 13,511 transactions being recorded to those accounts that did not have a budgeted amount associated with them in the ECCDHS financial management system for 2017 - 2021.**

Director Kirk's Observations: During the period in question, significant improvements were implemented with the chart of account structure and hierarchy to facilitate enhanced program

reporting and better alignment with State reporting requirements. The budget is established at a point in time and not managed at the “line-item” level, but rather the “Department as a whole.” While the number of transactions to non-budgeted accounts seems high, given the significant account structure changes occurring during this time, Mr. Kirk could imagine those account number changes explaining the majority of the transactions noted. It is not unusual in any given year for a department to have transactions to non-budgeted accounts and for departments to request the establishment of new accounts during the year to track expenditures and establish the new accounts for next year’s budget process.

**5. Budgeted amounts recorded in ECCDHS' financial management system did not appear to have been adjusted for all changes in both revenues or expenditures.**

Director Kirk’s Observations: This finding requires further context that wasn’t provided by Wipfli. Once approved by the Board, budgets are only adjusted via budget amendments approved by the Board during the year. These adjustments are usually associated with specific triggers, such as receipt of new grants/donations not budgeted, and carry-forwards from the previous year. In general, outside of these approved amendments, controlled by Finance, departments should not be adjusting their budget numbers.

**6. Amounts recorded in ECCDHS' financial management system apparently did not match the 2019 DHS Finance results reported in the June 8, 2020 Budget and Finance Committee minutes.**

Without seeing the specific reports, Director Kirk could not address this finding. The fact that the finding says “apparently did not match” does not seem definitive that the reports didn’t match.

**III. Issues/ Allegations -- General**

**A. County procedures relating to hiring of outside counsel.**

*ECCSO “Investigatory Findings”: “Attorney White’s true scope of representation is questionable. Schauf and others also violated county code by retaining his services.”*

On September 15, 2020, then Corporation Counsel Sullivan sent a letter to Administrator Schauf and County Board Chair Smiar regarding, “Sheriff’s Investigation into the Department of Human Services.” He requested that outside counsel be hired to represent the County’s interests for issues relating to the investigation. Given his role as Corporation Counsel, he believed it created a conflict of interest for him given the competing interests of the Sheriff, DHS, and members of the Board as it related to the Sheriff’s investigation.

On or about September 22, 2020, Human Resources Director Jessica Rubin reached out to the Weld Riley law firm to seek guidance regarding employee issues arising out of the Sheriff’s request to interview staff. The Weld Riley firm has represented Eau Claire County on employment matters

for decades. On or about September 24, 2020, Attorney Rich White from Weld Riley communicated with Administrator Schauf and Corporation Counsel Sullivan regarding the Sheriff's Office investigation. Attorney White provided guidance on employee issues, open record requests, and had communications with various individuals regarding the investigation, including Sheriff Cramer. Attorney White also explored with Sheriff Cramer alternatives to his office's continuation of a criminal investigation, which were rejected by Sheriff Cramer. While Chairman Smiar has stated he and the Vice Chair "retained" Attorney White, Attorney White had already been working with the Administration and Human Resources, within Weld Riley's capacity as outside labor and employment counsel, on issues relating to the Sheriff's investigation.

On December 8, 2020, after being confronted by County Board Member Wilke at the Committee on Administration meeting regarding her hiring of outside counsel, Administrator Schauf sent an email communication to Corporation Counsel Sullivan requesting a legal opinion, "I would request a legal opinion on the role of Administration in the ability to make decisions regarding hiring of outside legal counsel -- without having to take this to Committee." (Administrator Schauf waived the attorney-client privilege attached to this communication.)

Shortly thereafter, Administrator Schauf sent an email to Department Heads in response to a newspaper article regarding operations and the hiring of outside counsel for the County. She explains the County has an ongoing relationship with Weld Riley to provide outside counsel as the County needs for a variety of employment-related matters: "Our customary counsel, Bryan Symes was unavailable during our last request -- and Rich White was assigned." She attached Corporation Counsel's letter of September 15, 2020 to the email.

On December 15, 2020, Attorney White made a presentation to the County Board regarding his concerns involving the investigation. At this Board Meeting, Supervisor Chilson asked Attorney White who hired him and why. Attorney White explained that Weld Riley had been retained by Eau Claire County. His firm has a long-standing relationship with Eau Claire County where they will periodically be contacted and asked for assistance or advice, many times on labor issues. Stemming from that relationship, Attorney White had been asked to assist the County in matters connected to the Sheriff's intended investigation of DHS and request for information. He informed the Board that he did not represent the Sheriff's Department or DHS, he represented the County.

On October 18, 2021, the ECCSO executed criminal search warrants on the County Administrator, DHS and IT.

On November 1, 2021, the Committee on Administration formally authorized von Briesen's appointment as outside counsel to represent County leadership (Board and Administration) and the County Department of Human Services because of Corporation Counsel's potential conflict of interest in regards to the Sheriff's Investigation of DHS, its staff and its vendors.



County Code, Section 2.07.080 Appointment of special counsel, provides:

*The corporation counsel, under the following circumstances, may with the approval of the committee on administration retain special legal counsel to act on behalf of the county, its officers and subunits:*

- A. *When, in his or her opinion, special expertise not available in his or her office is required in the pursuit of a specified matter of civil legal representation;*
- B. *When, in his or her opinion, a potential conflict of interest or ethical problem would result from his or her representation;*
- C. *When, upon request with just and good cause shown an individual officer, department, committee or other subunit establishes a need for independent counsel.*

**Conclusion:** In a matter such as this, it is difficult to discern where employment issues begin and end. The entire ECCSO investigation into DHS centered around whether any employees had engaged in misconduct, which is an employment issue. Responding to public records requests seeking information on employee actions is an employment issue. The letters sent by Attorney White were all related to the ECCSO's investigation into alleged employee misconduct issues. Most, if not all, of what von Briesen has done relative to this investigation has been employment related. Certain County Board Members and Sheriff Cramer disagreed with Attorney White's approach, but it is our opinion the County Code was not violated when Attorney White was assigned by the Weld Riley firm to assist in this matter.

Once the search warrants were issued, additional issues emerged that went beyond employment-related matters. These included privacy and potential regulatory issues. Administrator Schauf and County Board Chair Smiar spoke with attorneys at von Briesen, regarding the services they could provide. At that point, it was appropriate for Administration to seek approval from the Committee on Administration to approve the appointment of von Briesen to formalize the relationship.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

**B. Alleged Interference with ECCSO's investigation.**

The ECCSO made many negative inferences throughout its report based on alleged interference or lack of cooperation during its investigation:

*ECCSO "Investigative Findings": "Schauf advised Cable and Kirk in a May 29, 2020, email that they may be contacted by law enforcement and to "keep the communication flowing," yet this "did not occur."*

*ECCSO "Investigatory Findings": "Numerous attempts to interview individuals within DHS were made. Those individuals declined to speak with us."*

*ECCSO "Investigatory Findings": "Former Eau Claire County Corporation Counsel along with Kathryn Schauf obstructed efforts in attempting to arrange interviews. Sullivan also told individuals not to speak with us without him present when he has no authority to do so."*

*ECCSO "Investigatory Findings": "Information was received from numerous credible individuals that staff were either informed not to speak with us, were provided talking points, or would be told what to say if they did interview with law enforcement. Those individuals also stated that they were told to tell the public that the investigation was done, or that there was no wrongdoing."*

*ECCSO "Investigatory Findings": "Kathryn Schauf sent a demand email and letter to Sheriff Cramer on August 13, 2020 requesting that all records, documents, and notes related to the investigation be provided to her immediately. This was sent 33 minutes after Schauf was served a preservation request. Schauf is well aware of law enforcement practices and procedures related to criminal investigations based upon numerous other criminal investigations involving County departments, and County employees, during her tenure as County Administrator. At no time during those investigations did Schauf demand to have information obtained during the investigation while the investigation is active. Schauf is also aware past practice is no information is released until the investigation has been completed and has been reviewed by the District Attorney."*

*ECCSO "Investigatory Findings": "Cable informed Christine Varnavas, the owner of Ananda Works, that she did not have to meet with us. After informing her of this information Varnavas stopped communicating with us and did not provide us the requested information. A search warrant had to be obtained just to get the information."*

*ECCSO "Investigatory Findings": "Numerous attempts were made to obtain records from DHS voluntarily. These requests were based on facts and evidence obtained during the investigation. DHS did provide some records voluntarily. A review of those records showed inconsistencies and discrepancies."*

*ECCSO "Investigatory Findings": "Kathryn Schauf and Norb Kirk attended an approximate 5 hour long briefing with law enforcement. During this meeting they were shown a PowerPoint presentation which contained information, facts, and evidence that had been gathered during the investigation. Schauf's response at the end of the meeting after seeing all of this information was to "get a search warrant."*

*ECCSO "Investigatory Findings": "A search warrant did have to be obtained due to lack of cooperation and in order to complete this investigation. During the execution of the search warrants County Board Chair Nick Smiar unethically contacted the District Attorney's Office, and Judge Michael Schumacher. Smiar was described as argumentative during their contact with him."*

*ECCSO "Investigatory Findings": "County Board Chair Nick Smiar also sent an email to Marty Green which contained inaccurate information related to the investigation and the execution of the search warrants."*

**Production of Documents.** von Briesen did not analyze or review all of the communications between and among Attorney White, County Administration, DHS, various County Board Supervisors and the ECCSO regarding their public record requests. We note only that these communications and attempts to fulfill record requests were a time-consuming process and a drain on County resources. According to its report, the ECCSO obtained and reviewed approximately 160,000 pages of documents and 400,000 emails and Cisco Jabber messages. These documents contained confidential client and personnel information and protected privileged attorney-client communications. If they had been produced pursuant to a public records request, it would have taken weeks or months for staff to have sorted, redacted, and produced the documents, taking time away from their normal duties.

After von Briesen became involved, we obtained additional documents at their request. This included providing the requisite notice under the public records laws before personnel information was provided to the ECCSO. We also worked extensively to assist Wipfli in coming to an understanding of what data they had and how they could format the data to enable them to run the data through their forensic programs.

**Interviews.** As indicated in their report, the ECCSO interviewed numerous individuals both within the County and externally. Early on during their investigation, there were communications between the Investigators and DHS Fiscal staff attempting to arrange interviews. Human Resources and Administration reached out for guidance from Corporation Counsel and then the Weld Riley firm on their demands. Fiscal staff were perfectly willing to meet with ECCSO in their offices where they could explain the process and procedures and look up information for the ECCSO. However, the ECCSO refused to do so. As one individual stated to us, the ECCSO refused to sit down with them to understand the various DHS programs and program components. The ECCSO insisted that the investigation be done "their way and on their turf." For example:

- Staff were required to come to ECCSO alone and to be interviewed alone in a closed room by Detective Greener and Detective Voelker -- unless they hired their own personal attorney at their own expense to represent them.
- Corporation counsel and/or von Briesen lawyers were not allowed to be present. We were never provided with a written legal opinion on why we could not be present.

- Employees were not allowed to bring a co-worker or another member of the DHS staff.
- ECCSO refused to interview DHS employees in their offices where they would have access to any information necessary to explain things.
- ECCSO refused to tell the employee ahead of time what topics would be discussed in enough detail to prepare themselves for the interviews.
- During his “SPARK investigation,” Mr. Voelker was reportedly hostile, threatening and intimidating to DHS Fiscal staff. (This is discussed in more detail below.)

An employee has the constitutional right not to participate in a criminal investigation. The County cannot direct employees to forgo these rights. The County, as an employer, could not require the employees to answer any questions in a criminal investigation.

I want to note that Vickie Gardner was extremely cooperative in virtual meetings with the ECCSO and Wipfli in order to assist them in determining how to interpret the data they had obtained via a search warrant.

After Director Cable’s retirement, Vickie Gardner, Chelsey Mayer, and Tammy Stelter each confirmed that they were **NOT** told by Director Cable or anyone else they were not to meet with the Sheriff’s Department during the investigation. Ms. Cable specifically told them it was up to them if they participated. Ms. Gardner added that Ms. Cable had asked to be apprised if she did go for an interview. Each of these employees confirmed they were **NOT** told they could only meet with the ECCSO if Corporation Counsel Sullivan was present. After they were told Corporation Counsel Sullivan could not be present, they each felt it was still up to them if they wanted to participate.

In sum, the ECCSO created a perceived hostile and intimidating environment for witnesses such that they did not want to participate.

An allegation was made in the media that “a memo was sent out to all employees from the ‘top’ telling them not to talk to the Sheriff and, if you did, here are talking points you can say to the Sheriff”. We did not find ANY truth to this allegation.

On October 20, 2020, at 11:06 a.m., Sheriff Cramer sent an employee communication to all employees informing them his office was conducting a criminal investigation into the Department of Human Services. He encouraged employees to come forward if they had any information “concerning behaviors or activities regarding anyone with in the Human Services Department, County Government, or County Administration ...”

On October 22, 2020, at 3:35 p.m., Administrator Schauf sent out an email to all employees stating as follows:

*Employees,*

*Earlier today all of you received an email from Sheriff Ron Cramer concerning a criminal investigation being conducted by his office. At present the Administration of Eau Claire County is not aware of criminal activity that has occurred within the county or the County Department of Human Services consistent with the Sheriff's investigation. The sheriff has declined to reveal to us the name of the person or persons he is investigating to maintain the integrity of his investigation. While the action of the Sheriff of sending an email to all employees is somewhat unusual, it is within his discretion to conduct investigations in the manner he deems to be appropriate. While at this time we are not aware of any criminal activity that has occurred within the county, if it is determined by the Sheriff's investigation that criminal activity has occurred by county employees that is related to county programs or funds you can rest assured that appropriate disciplinary action will be taken by the county against the employee(s) who committed the crime.*

*I would like to remind you that the Sheriff is not the administrator, manager, or supervisor of any departments or agencies other than his own. While you are free to report suspected criminal activity by the methods suggested by the sheriff, to the Sheriff Department, there are different pathways of reporting for noncriminal matters. I would remind you that issues related to your employment with Eau Claire County, other than criminal matters, should be reported to your supervisor, department head or the Human Resources Department, consistent with the terms of the County's Employee Policy Manual. We encourage all employees, within their rights as citizens and individuals, to report criminal activity if you are aware of it, and to cooperate with the Sheriff department employees if you are contacted for information.*

This communication is NOT a directive not to talk to the Sheriff nor is it a list of talking points. We have interviewed and/or have had email communications with many individuals who have confirmed that no such email communication occurred.

In early October 2022, von Briesen was asked to coordinate the scheduling of "fact-finding interviews" with the individuals listed on page 392 so the ECCSO could conclude its criminal investigation. While von Briesen had been coordinating with the ECCSO for almost a year, this was the first time von Briesen had been given a list of individuals the ECCSO wanted to talk to.

ECCSO advised us that each individual's participation was strictly voluntary and if they did not want to participate in the interview **"it was perfectly fine"**. (emphasis added).

ECCSO did inform us they would conduct the interviews in either a conference room or what they called their "soft" interview room, in which there is a couch, table and two chairs, rather than the room where the ECCSO interviews criminal suspects. Each interview would be audio recorded by the ECCSO. And again, the individuals had to come alone, unless they hired their own personal attorney. This information was conveyed to the individuals asked to participate in interviews.

On October 17, 2022, von Briesen sent an email communication to Detective Greener asking for confirmation that they had received all the documents requested during the course of their investigation and providing an update of its efforts to schedule interviews. Detective Greener was informed that in the context of facilitating his request, we had been asked by several individuals why they are being interviewed. We have told individuals generally that there are various matters the ECCSO was investigating, including matters stemming from Zer Smith's criminal activity and the use of DHS funds over the last several years. One interviewee, Kathryn Schauf, for example, had expressed a willingness to be interviewed and assist in the investigation in any way they could, if they were provided additional information and clarity regarding what the ECCSO was investigating.

We explained to the ECCSO, we did not want to inaccurately summarize or provide any misinformation to the interviewees. (Remember at this point, we could not conduct our internal interviews until they were done with their criminal interviews). We asked for a statement or set of bullet points for each interviewee identifying the specific topics they intended to discuss with each interviewee.

After confirming they had received all records requested, this is what we received in response:

*In regard to your second request I hesitate to provide much more information in order to not jeopardize the integrity of the investigation or the interviews. With that being said below is the general topics that would be discussed with the particular individuals, but is not exclusive as during the interview other things may come up:*

*Kathryn Schauf*

*Issues found during the course of the investigation related to her actions or lack thereof*

*Diane, Vickie, Tammy, Chelsey*

*Issues found during the investigation related to their activity or activities of DHS*

*Nick Smiar*

*Issues found during the course of the investigation related to his actions, and his knowledge of the situation.*

*Jim Dunning*

*Issues related to Christine Varnavas' business and any financial interest he may have.*

This information was passed on to the prospective interviewees, but only Mr. Dunning agreed to proceed with an interview. This list of topics provided no clarity to those who were uncomfortable with the interview restrictions and chose not to participate.

**Conclusion:** This is an area in which there will continue to be disagreements. The investigation was contentious.

**Recommendation:** No remedial action is necessary relative to this allegation.

#### **IV. Allegations/Issues Relating to Administration**

**A. Allegation: Administration unduly delayed contacting law enforcement regarding Zer Smith theft.**

*ECCSO "Investigative Finding": "Zer Smith committed a crime which was not initially reported to law enforcement, and she was given the opportunity to reimburse the County which she did. Only after discovering several months later there were additional funds stolen by Smith from the SPARK program was law enforcement contacted."*

After being with DHS for a year, DHS Fiscal Manager Vickie Gardner questioned the purchasing card program for DHS and advised Director Cable they needed to put a new process in place. According to Ms. Gardner, they reduced the number of individuals who had access to purchasing cards and in January or February of 2019, DHS Fiscal took over the reconciliation of purchasing cards from the Operational Services Manager (Sue Schleppenbach), and began securing receipts and verifying authorization. When receipts were not provided, they would follow-up and request them. In some cases where an employee was out of the office, it took time for them to obtain receipts and complete the verification process.

In September of 2019, a DHS Fiscal Accountant notified then Deputy Director Tom Wirth she was unable to account for some purchasing card transactions by DHS employee Zer Smith. (Ms. Gardner was out of the office due to a family emergency). This concern was brought to the attention of the Fiscal Manager, the DHS Director and then to Human Resources, the County Administrator, and Corporation Counsel.

On 10/14/2019, Zer Smith was confronted with the discrepancies, admitted the theft, and her employment was immediately terminated. She was ordered to submit repayment for the unauthorized purchasing card purchases totaling \$945.20 and was advised "after further review that the County may pursue criminal charges for unauthorized/personal use of the purchasing card." (Zer Smith termination letter).

On 10/25/2019, Zer Smith reimbursed the County for amounts she was confronted with at the time of her termination, less one charge that was reversed on a credit card. The total amount reimbursed was \$850.78.

On 10/27/2019, Amanda Twitchell, HR, sent an email to County Administrator Schauf with the results of her investigation into Zer Smith's time cards, recommending the matter be turned over to the ECCSO for investigation of timecard fraud.

Upon her return to the office, DHS Fiscal Manager Gardner and her fiscal team continued to review Zer Smith's credit card transactions and then expanded their investigation to include transactions involving gift cards.

On 12/3/2019, Administrator Schauf sent an email to Corporation Counsel Sullivan asking about the status of further investigation of Zer Smith. Corporation Counsel Sullivan replied that Director Cable or Assistant Director Wirth was working on it. Administrator Schauf asked Director Cable for a final report on their investigation.

On 12/19/2019, Administrator Schauf, Director Cable and Corporation Counsel Sullivan met. DHS' investigation found evidence suggesting Smith's personal use of gift cards intended for program participants and additional personal purchasing card transactions from funds designated for the "SPARK" program.

"SPARK" stands for "Supporting Positive Action Resilience and Knowledge" and is funded in most part by a State Youth Justice Innovation Grant. The program is an alternative to detention.

Administrator Schauf indicated Corporation Counsel Sullivan and DHS Director Cable did not see enough evidence to move forward with the allegations of timecard fraud, but felt after conducting due diligence they had enough information to initiate the criminal investigation into gift card and purchasing card theft.

Corporation Counsel Sullivan followed up by contacting the City of Eau Claire Police Department, who informed him they would have an investigator contact him and set up a meeting after December 25

On 01/14/2020, Purchasing Manager Draxler, Finance Director Kirk, Vickie Gardner, Director Cable, Hannah Keller, Administrator Schauf and Corporation Counsel Sullivan met. In follow-up email communications, Purchasing Manager Draxler reported, "**Mike Voelker**, retired police investigator, agreed to work with us as an outside consultant." Another meeting was scheduled for 1/22/2020, and Corporation Counsel Sullivan reported that Lt. Ryan Dahlgren from the ECPD and one of his detectives would attend.



Thus, at the same time the City of Eau Claire Police Department was brought in to do a criminal investigation, Administration proactively hired an “outside consultant” to provide it with a high level “Red Flag Analysis” to make recommendations on how to improve its practices to identify and prevent fraud in the future. On January 28, 2020, then Operations Manager Frank Draxler entered into a contract with **Mike Voelker** for services to “commence on 1/29/2020 and continue through agreement completion of July 31, 2020,” at a rate of \$75 per hour. The addendum to the consulting contract with the County advises an internal County review revealed what appeared to be unauthorized purchases made on County-issued purchase or procurement cards (“P-cards”) and stated Eau Claire County had taken steps, including staff education, additional documentation requirements, and a review procedure to eliminate or reduce the risk of future unauthorized purchases. In particular, Mr. Voelker was hired to:

*. . . conduct a study, review and analysis of County-provided business records, business practices, documentation, policies and procedures related to the County supplied information events [Zer Smith P-Card incident] for the purposes of **providing County with any measures, steps, changes to, enhancements, and/or deletions from past, current or future CLEINT [sic] business** in order that CLEINT [sic] can be assured that as best as possible, up to the date of the financial report prepared by CONSULTANT, **fraud identification and prevention due diligence measures and practices have been identified and conveyed to COUNTY by the CONSULTANT.**” (from Exhibit A to Consulting and Analysis Services Contract, emphasis added).*

County Administrator Schauf explained that Mr. Voelker was hired because he was a retired City of Eau Claire Police Officer. Neither Ms. Schauf nor Mr. Draxler appeared to have known that Mr. Voelker, after retiring from the Eau Claire Police Department in 2016, had been working for the ECCSO on a part-time basis since February 13, 2017, as a “special deputy” at an hourly rate of \$14.63.

On April 27, 2020, Mr. Voelker emailed his undated “DHS SPARK Program ‘P-CARD’ Final Report” (“SPARK Report”) addressed to County Administrator Schauf, Operations Manager Draxler and Corporation Counsel Sullivan. (Mr. Voelker’s invoices to the County indicate “Interim Report to Thumb drive and delivery” March 31, 2020.) The introductory section of the report provides:

***“This report is intended to be a guideline for Eau Claire County to move forward in areas of improving accountability, training, standards, segregation of duties, enhanced documentation review regular auditing as well as enhanced auditing and general program structure.”***

The Report further provided as follows:

*"This report is intended for the information of the parties [Schauf, Draxler & Sullivan] specified above, Eau Claire administration and management, and parties identified by Eau Claire County management and their designated legal counsel."*

The scope of the consulting engagement, as restated in Mr. Voelker's report, was to provide "a limited scope review and study of the Eau Claire County Department of Human Services – "DHS" purchasing or "P-Card" usage of designated SPARK Program funds to determine whether Eau Claire County DHS and SPARK Program established and maintained fraud prevention, identification of practices for the period covering 2018 and 2019 (the Period)."

Mr. Voelker's report provides his own criminal analysis of the evidence gathered by DHS against Zer Smith. Both Mr. Voelker and the Eau Claire Police Department Officer investigating Zer Smith's criminal activities had access to a shared file. Mr. Voelker takes particular issue with the fact a DHS Fiscal employee corrected an entry on a spreadsheet that had been placed into a shared file without telling him or others. DHS maintains this was a "working document," as the investigation was ongoing and they worked closely with ECPD Officer Olivia Earl on the criminal investigation.

Mr. Voelker's report repeatedly suggests DHS should have caught the theft earlier and did not have adequate safeguards in place to prevent this type of fraud. While some of his recommendations had merit and had already been implemented; others were of questionable value. He suggests, for example, the County watch a You Tube video, called "All the Queen's Horses," "which lasts about an hour and ten minutes which relates to a significant embezzlement that occurred in Dixon, Illinois."

At the end of his report, he states:

*"All findings furnished to Eau Claire County are exclusively for Eau Claire County's own use. Eau Claire County will hold me harmless from damages, losses, costs, or expenses, including attorney fees, suffered, or incurred in connection with, or arising out of claims based on this review and findings provided to Eau Claire County, and for which Eau Claire County fails to keep confidential. I agree to keep my findings strictly confidential and will not disseminate or release any findings to third parties unless authorized in writing by Eau Claire County, or court ordered." (emphasis added).*

On June 10, 2020, Sheriff Cramer approved Mr. Voelker to begin working for the ECCSO as a detective to do "consulting work" on a "confidential case" at an hourly rate of \$25.32, in addition to his "special deputy" work.

This SPARK Report, which was intended to assist Administration in implementing policy changes, appears to have been used as a springboard for a portion of the ECCSO's criminal investigation into DHS. During Mr. Voelker's review of the emails obtained from the search warrant, Mr. Voelker found communications critical of his report. These emails may have created bias in his subsequent criminal investigation of DHS. In its DHS Investigation Report, the ECCSO also is critical of the Eau Claire Police Department's investigation into the Zer Smith matter and identifies what they believed were areas of inquiry that were not investigated.

Detective Voelker alleged that DHS did not provide complete and accurate information to the Eau Claire Police Department during its investigation into Zer Smith and that spreadsheets provided to the ECPD were incomplete.

Director Cable explained that during their initial meetings with Mr. Voelker and ECPD, it was made clear that her Fiscal staff had created a "working document" which it placed in a shared folder. Mike Voelker was not hired to conduct a criminal investigation and was not privy to all the information requested or given to the Eau Claire Police Department. The criminal investigation was still ongoing and ECPD Officer Olivia Earl came over to DHS at least one time to meet with them in person. Mr. Voelker was upset when he was not informed that a correction had been made to one of the documents posted when the change had been made.

DHS staff asked Mike Voelker to come to their department and work with them. He declined.

A part virtual, part in person, meeting was held with Mike Voelker, Kathryn Schauf, Diane Cable, Olivia Earl, Frank Draxler, and Tim Sullivan. Diane Cable thought the purpose of the meeting was to review information and provide additional information. During the meeting, Mike Voelker made accusations and asked investigatory questions. At that point, it seemed Mike Voelker's investigation had shifted and he was accusing the department of wrongdoing instead of assisting the department in identifying remedial measures.

DHS Fiscal Manager Vickie Gardner reported she attended a virtual meeting with Mr. Voelker and others. We believe this is the same meeting referenced above. Ms. Gardner reported she and others felt like they were being attacked. Mr. Voelker fired off questions without waiting for responses, waived around documents he would not show them, and was accusatory. He was perceived as being arrogant and threatening.

**Conclusion:** Administration did not immediately request a criminal investigation into the actions of Zer Smith. The amount of Ms. Smith's personal charges initially found was relatively small and she paid the County back. However, Ms. Smith was put on notice at the time of her termination that additional investigation was forthcoming. DHS Fiscal continued to investigate after Smith's termination, as did the HR department. Approximately two months after Zer Smith's termination, the Eau Claire Police Department was asked to conduct a criminal investigation into the additional

allegations. These allegations involved Smith's personal use of gift cards and additional personal purchasing card transactions from funds designated for the "SPARK" program.

DHS Fiscal Manager Vickie Gardner was proactive when she advised DHS Director Cable they needed to put a new process in place for monitoring the use of purchasing cards. They reduced the number of individuals who had access to purchasing cards and in January or February of 2019, Fiscal took over the reconciliation of purchasing cards which included securing receipts and authorization. It was their new system that enabled them to uncover Zer Smith's theft. They found purchasing card charges without receipts. Ms. Smith was confronted with it, she admitted to it and was terminated. At that point, Ms. Gardner started going back and reviewing additional records.

Management has discretion to determine when to involve law enforcement when criminal activity is suspected. DHS did not have a good tracking mechanism in place, so it was not easy for its staff to uncover the discrepancies that had occurred before DHS Fiscal took over oversight of the P-cards. Management had placed too much trust in its employees with respect to purchasing. Given the other responsibilities these employees have, two months was not an unreasonable amount of time for DHS Fiscal to conduct further internal investigations before the matter was turned over for a criminal investigation.

Mr. Voelker should not have been retained as an outside consultant when he was already employed by the County. He was not serving as a business consultant when he authorized his "SPARK Report," but was conducting a law enforcement type analysis. He should have been hired as an LTE and paid an hourly rate.

Eau Claire County Code Section 3.50.020 provides: "An official or employee or a business in which an official or employee holds a 10% or greater interest, may not enter into a contract with the County involving a payment or payments of more than \$3,000 within a 12-month period unless the official or employee has made a written disclosure of the nature of such relationship or interest to the County Board." (emphasis added). Mr. Voelker's invoices to the County indicate his "actual work/service hours" totaled 95.6 hours, which at a rate of \$75 per hour would total \$7,170. Mr. Voelker, however, only billed the County \$1,912.50 for 25.5 hours worked in January and February 2020, and \$1,087.50 for 14.5 hours worked in March 2020, for a total of exactly \$3,000. He did not bill the County for any work performed in April.

**Recommendation:** Administration, Human Resources and Corporation Counsel should continue to work collaboratively when they believe an employee has engaged in misconduct which could also rise to the level of criminal activity, keeping the Sheriff's Department informed as may be necessary and appropriate.

Before entering into an independent contractor relationship with an individual, Human Resources should be consulted to make sure the individual is not an employee of the County.

\*No further remedial action is necessary relative to this allegation.

**B. Allegation: Administrator Schauf did not answer truthfully when asked by Sheriff Cramer why the Zer Smith criminal complaint was referred to the Eau Claire Police Department instead of the Sheriff's Office.**

*ECCSO "Investigative Finding": "Administrator Schauf knowingly and deliberately made a false statement to Sheriff Cramer and Captain Brettingen regarding her claim as to why the Eau Claire Police Department investigated the Zer Smith incident."*

This conversation occurred on June 2, 2020, when Sheriff Cramer and Captain Brettingen met with Administrator Schauf to inform her of the Complaint the Sheriff had received about DHS' fiscal reporting error. This was the May 29, 2020, complaint made by two County Board members.

The parties' recollection of what was stated and the context differ. Administrator Schauf believes Sheriff Cramer misunderstood what she was trying to say. Administrator Schauf explained that she and Sheriff Cramer had a philosophical difference on how to handle potential disciplinary issues and Sheriff Cramer wanted to be consulted on all internal investigations.

On June 3, 2020, Administrator Schauf sent Sheriff Cramer and Captain Brettingen a follow-up email communication stating:

"Ron and Joel –

Thanks for the dialogue yesterday. I will make sure that I provide notice when issues are turned over to our Eau Claire City partners for investigative purposes. Based on our conversation and my thoughts after the meeting I believe that having the City conduct investigations that involve aspects of our organization continues to be a best practice solution. I also believe it is the most appropriate solution for the current complaint. I sent Norb's summation of the reporting error."

Sheriff Cramer did not refer the Board Members' complaint to the City or another outside agency, but asked Detective Ryan Greener and, as set forth above, Deputy Voelker to look into the matter. Administrator Schauf stated during her investigatory interview that when this communication occurred, Sheriff Cramer was already upset with her because she had referred the Zer Smith criminal investigation to the Eau Claire Police Department. She described an earlier matter when she got the Sheriff's Office involved in a potential fraud situation because the Eau Claire Police Department was not able to assist in a timely manner. (This involved a temporary employee who was charged in August of 2018 for stealing nearly \$20,000 while working in the Eau Claire County Finance Department).

Administrator Schauf's response when asked about this conversation during her investigatory interview and the augmentation she provided to the Sheriff's Report are somewhat inconsistent. During her investigatory interview, Ms. Schauf stated when it came to internal employment investigations, she talked to the County's Human Resources Department, not the City. However, since Dale Peters has worked in Human Resources they would on occasion have peer-to-peer conversations on County HR issues. She described a situation where an employee had been terminated, filed a grievance, and the City assisted with the grievance. Another time, she asked for input on processes after they had a whistleblower situation. In her augmentation, Ms. Schauf stated as follow: *"The County had at the time an arrangement with the City of Eau Claire as it pertained to personnel issues, investigation, and follow-up as needed. This arrangement was presented as an example of cooperation between the two agencies."* If there was an arrangement, it was informal.

Attorney Victoria Seltun was the Human Resources Director for the City of Eau Claire from May 9, 2016 to July 22, 2022. She does not recall any formal arrangements with the County when it came to personnel matters. However, she was aware that Dale Peters and Ms. Schauf would discuss matters on a peer-to-peer level, with Ms. Schauf drawing upon Mr. Peters' expertise in the area of Human Resources.

**Conclusion:** While the ECCSO went to great lengths in an attempt to show Administrator Schauf was not truthful in explaining why she referred the Zer Smith matter to the Eau Claire Police Department, the reason she gave the Sheriff was irrelevant. When Sheriff Cramer had this meeting with Administrator Schauf, he was not engaged in gathering information as part of a criminal investigation. He was apprising her that a complaint had been made. Regardless of her response to his inquiry as to why the Eau Claire Police Department had been called in to investigate Zer Smith, her response was not made to mislead the Sheriff in any investigation. Ms. Schauf appears to have been attempting to deflect his anger.

It is up to Administration to determine whether a potential criminal matter is referred internally to the Eau Claire County Sheriff's Department or to the Eau Claire Police Department.

Many individuals in the Sheriff's Office work with employees in other departments on a day-to-day basis. Inherent conflicts of interest can arise if they are asked to conduct a criminal investigation into Eau Claire County employees. Each matter must be evaluated on an independent basis to determine what is appropriate.

**Recommendation:**

Ms. Schauf should think carefully before responding to an inquiry in a way which could be misinterpreted. This is a performance issue that is best addressed during the performance appraisal process.

The Eau Claire County Sheriff's Department should not investigate County Departments or operations, which creates conflicts of interest for corporation counsel and often necessitates the retention of outside counsel to facilitate the investigation, as occurred here. These matters should be referred to outside law enforcement agencies.

\*No further remedial action is necessary relative to this allegation.

**C. Allegation: Administration failed to refer other issues to law enforcement for criminal investigation.**

*ECCSO "Investigatory Findings": "There were additional fraudulent activities of other DHS employees found during this investigation that was never reported to law enforcement or audited by DHS."*

The ECCSO is alleging that two personnel matters should have been referred to law enforcement for a criminal investigation. In one instance, an employee did not take PTO on a day she did not work, and provided false information to her supervisor in an effort to prove she had worked that day. This matter was investigated and handled by Human Resources. Administrator Schauf stated this matter was handled by Human Resources and she was not made aware of this particular termination at the time. Diane Cable responded she relied upon Human Resources to do the investigation and follow-up and it is her understanding the dates of service on client records were corrected.

In the second instance, after an employee was counseled regarding performance issues, the employee resigned before she had submitted the supporting documentation for P-card purchases she had made. After this employee left, DHS Fiscal Services Manager Vickie Gardner began gathering documentation for verification of the employee's purchases and then others in the department continued the review. In her opinion, based on a review of the vendors and the amounts, most of the purchases were easy to figure out. DHS Fiscal followed up on the missing receipts and purchases made. On page 204, the ECCSO takes issue with a \$223.26 transaction that took place on a Sunday when the employee was not working. The item was ordered on Friday, October 23, 2020, and shipped on Sunday, October 25, 2020. Amazon charges the P-card when the item is shipped.

**Conclusion:** There was one instance of employee misconduct cited in the ECCSO report involving the falsification of a business record that occurred which was not referred to law enforcement. The ECCSO makes a number of unsupported assumptions (p. 229) about why this matter was not referred to law enforcement. In the second instance, DHS Fiscal followed up on the missing receipts and purchases made by this employee and found no evidence to suggest fraud had taken place. There is no affirmative duty for management or a human resources department to report every instance of alleged misconduct to law enforcement. These are judgment calls.

**Recommendation:** Administration, Human Resources, and Corporation Counsel should continue to work collaboratively when they believe an employee has engaged in misconduct which could rise to the level of criminal activity, keeping the Sheriff informed as may be necessary and appropriate.

**D. Allegation: Edits were made to a draft of the October 2019 CLA report to remove a paragraph on County fiscal processes.**

*ECCSO "Investigatory Findings": "Clifton Larson Allen (CLA) found that during a 2019 review of DHS fiscal practices, that programmatic changes were being made without considering the fiscal impact."*

*ECCSO "Investigatory Findings": "Vickie Gardner did not feel she could speak up about the above issue without fear of repercussions from Cable."*

*ECCSO "Investigatory Findings": "Kathryn Schauf deleted the information from the final CLA report regarding this issue and later requested that information be added to the report that there was no mismanagement or negligence regarding the financial condition of the department. This is not accurate."*

Clifton Larson Allen (CLA) was retained in late 2019 to provide recommendations to improve efficiency and provide more accurate and detailed fiscal reports in the Human Services Department. As stated in the first paragraph of the CLA report:

*"Eau Claire County Human Services Department has undergone significant changes over the past several years. The Department has widened its array of services and programs, experienced significant employee turnover and implemented a new electronic medical records system. During this time, they have continued to experience large annual deficits that have been difficult to forecast. The purpose of this review is to present recommendations for financial and operational improvement that will improve Department efficiency and provide Management and the Board with more accurate and detailed reports in a timely manner."*

It is not uncommon for management to review a draft report before it is finalized to correct errors of fact or verify that the report accurately reflects the information upon which the report is based. The paragraph Administrator Schauf asked to be deleted from the final report stated as follows:

*"8. County Fiscal Processes – In light of past deficits and resulting cash flow implications, it would be in the best interest of the Department to provide additional visibility and transparency to all stakeholders whenever programmatic changes are contemplated that impact the fiscal*



*position of the Department. We recommend that the Department generate fiscal projections of any considered programmatic changes before any formal discussions take place and/or any decisions are made and provide those to the Finance Director, County Administrator, and DHS Board to highlight the fiscal impact for any potential changes under consideration."*

It is apparent from email communications between Finance Director Kirk and Administrator Schauf that they both agreed this item #8 was not part of the intended scope of work that CLA had been hired for. When CLA was conducting its review, the Accountant felt Ms. Gardner was not always included up front when program changes were being considered and was afraid to speak up about it.

When Attorney Dale met with Vickie Gardner in September of 2021, she indicated she had a good working relationship with Ms. Cable and if she had any issues, personnel or otherwise, she would take them to Ms. Cable. She said DHS' Administrative team, of which she was a member, would meet daily and would work through issues. She said if she had any issues with Director Cable or Deputy Director Schmidt, she would feel comfortable going to Administrator Schauf.

In a subsequent interview, after Director Cable's retirement, Ms. Gardner was adamant that she was not afraid to discuss financial issues with Director Cable. She may have indicated to Director Cable there were things she did not agree with, but she respected the final decision was up to Director Cable. She used to remind Ms. Cable that every change they made would end up in Fiscal, and she (Ms. Gardner) needed to be made aware of changes at some point, earlier rather than later. At times Ms. Gardner would voice her frustration with co-workers if DHS forgot to include her in a discussion (as apparent in some email communications the ECSSO obtained through its search warrants). Occasionally, they would forget to include Ms. Gardner in program discussions, but it was not intentional. In 2018 and 2019, DHS was growing and there were lots of changes happening. Ms. Gardner feels she finally has the staffing she needs in DHS Fiscal.

When asked about Item #8 during her investigatory interview, Ms. Schauf stated, "No one disagrees with this statement." She said the County was already working on this change, but it had not been spelled out in a written fiscal policy yet. She did not believe Ms. Gardner had the concerns that the accountant expressed. She saw this as a side issue that didn't need to go into CLA's report. Ms. Schauf stated Director Cable relies heavily on her Fiscal team and brings them into discussions to problem solve. Ms. Schauf did not believe Ms. Cable would have been upset if this item had been included in the report.

During her investigatory interview, Administrator Schauf was not asked about the portion of her October 9, 2019, email to Finance Director Kirk wherein she recommended that the following be added to the introductory text, "There was no indication in this analysis that there was fraud, negligence, mismanagement, or the misstatement of the financial condition of the department."

However, Ms. Schauf's proposed addition is true. The scope of CLA's review was limited and they were not asked to do a full fraud analysis. In what they did review, they did not indicate any findings of "fraud, negligence, mismanagement, or the misstatement of the financial condition of the department." Her request to include this statement was not "improper, unethical, and con-transparent" nor "criminal in nature." We note Ms. Schauf's request to add this phrase occurred before Zer Smith was confronted and terminated from the County on October 14, 2019 and before the \$1.2 million reporting error was discovered in May of 2020.

**Conclusion:** The broader issue is the perceived culture created by the County Board and the Administrator's attempt to maintain control of the narrative as information was brought before the Board to protect DHS from verbal abuse and micromanagement by the Board. When Attorney Dale interviewed several members of the DHS Management Team in September of 2021, by far the biggest concern they had was with the County Board's interaction with Director Cable and members of her department. Each pointed out they believed certain County Board Supervisors did not treat Ms. Cable and her Department fairly. They commented about how certain Board Supervisors were disrespectful and verbally abusive during meetings. They expressed their belief that the County Board created a hostile work environment for them.

During her investigatory interview, Administrator Schauf commented that because of the perceived "hostile" relationship with some Board members, individuals are afraid to speak up and/or provide information to the Board because if the information changes, they fear they will be attacked for it (and it can cause PTSD-like reactions). She commented that Diane Cable is also very protective of her staff.

Administrator Schauf was doing her best to make sure that information was put forth to the Board of Supervisors in a manner which would move the County forward in a positive fashion and not create fodder for unproductive debate.

**Recommendation:** The new Code of Conduct for County Board members addresses many of the issues that created the environment where employees felt they had to be guarded in their communications with the Board of Supervisors instead of being able to engage in collaborative discussions.

\*No remedial action is necessary relative to this allegation.

**E. Allegation: Lack of transparency when providing information to County Board members.**

a. Not creating or providing records at Board Member's requests.

*ECCSO "Investigative Findings": "Kathryn Schauf hesitated in providing public records to a County Board Supervisor, that would be permissible to be obtained under the Freedom of Information Act."*

ECCSO's report is referring to a discussion regarding a request for information made by Supervisor Pagonis (p. 14-15).

During her investigatory interview, Administrator Schauf explained the County does not have an obligation to create records for members of the public. The public has a right to request documents as the documents exist. An individual County Board Supervisor does not have any greater right to receive public records than a private citizen. Only the County Board (as a whole) or a Committee of the County Board can require records be created for their use.

As set forth in her augmentation, Administrator Schauf further states, "For each request if a record does not exist we balance the amount of time required to prepare specialized reports. County staff lean towards understanding what the request is and providing that information. Inviting the team to discuss how to handle excessive data requests is a valid and appropriate response."

**Conclusion:** Administrator Schauf did not violate public records laws in the way public record requests were handled. She also did not violate County Code.

**Recommendation:** The County Board should receive additional training on Wisconsin's Public Records Laws. If a County Board Supervisor wants a financial report created, they should make the request through the Finance & Budget Committee or the Human Services Board as necessary and appropriate.

b. Framing the narrative for and during Board and other meetings.

*ECCSO "Investigation Findings": "Schauf has provided direction to and input via Cisco Jabber messages while others are presenting at County Committee meetings including telling individuals not to answer certain questions."*

**Conclusion:** As stated above, the broader issue is the perceived culture created by the County Board and the Administrator's attempt to maintain control of the narrative to protect DHS from verbal abuse and micromanagement. This goes to other departments, such as Finance, as well. Administrator Schauf does her best to make sure that information put forth to the

Board of Supervisors will move the County forward in a positive fashion and not create fodder for unproductive debate.

The recently adopted Code of Conduct for County Board Supervisors, if followed and enforced, would have a positive impact on communications going forward.

We note that we have been apprised that Board Supervisors may be engaging in text messaging with each other during meetings. Be mindful that this not only creates a public record, but also could constitute a walking quorum.

**Recommendation:** No remedial action is necessary relative to this allegation.

## **V. Issues/Allegations Regarding DHS and Zer Smith Theft**

### **A. Discussion of whether Zer Smith thefts were from levy or state funds.**

In our investigatory interview, we presented Administrator Schauf with a series of email communications she had with DHS Director Cable and Corporation Counsel Sullivan from December 14 -16, 2020, and between Finance Director Kirk and Corporation Counsel Sullivan on February 22, 2021, discussing whether the thefts were from levy or state funds.

In one of the emails, DHS Director Cable provided the following information:

*The grant was not affected by the theft that occurred. Tax Levy was affected by the theft.*

*Total Program cost 2017-2019: \$442,981*

*Grant portion: 87%*

*Levy: 13%*

*(Theft amount: 5% of total program).*

During her investigatory interview, DHS Director Cable explained the amount stolen was less than the grant funds that the Department sought reimbursement for from the State. If the Department seeks reimbursement from the State for grant dollars spent, then it is grant dollars. The Department was not reimbursed by the State for thefts. The amount stolen came from the levy dollars which were allocated to the program.

Administrator Schauf summarizes her conclusion in a February 22, 2021, email to Corporation Counsel Sullivan: "Based on how the accounts are constructed and that revenues are combined and that services are not specially coded as to the source of levy or grant – they are only coded to the program without specificity of source. The only way to verify with 100% accuracy would be if there is a singular revenue source." In her investigatory interview, Ms. Schauf explained that gift cards are not a fixed cost unless they are somehow earmarked in specified accounts and they were not.

Per Wipfli's Report at page 2-10: "The ECCSO wanted to see if it could be determined what sources of the funds for the SPARK program were, i.e. levy v. grant, within the accounts. Based on the limited amount of information provided in the description of the transaction detail, Wipfli was unable to identify if any of the sources of the funds were from levies or grants." Thus, they, too, could not verify whether the thefts were from State grant dollars or County funds.

On December 14, 2020, Youth Services/JJ Manager Hannah Keller sent to Diane Cable via email an excerpt from her 2019 final evaluation of the SPARK program, "indicate[ing] the County Aids in 2019 to be \$65,000 which would more than cover the amount lost due to theft. The excerpt from her 2019 final evaluation shows a line item marked "Personnel" with \$115,000 coming from the Grant and \$65,000 coming from County Aids, for a 2019 End of the Year Spending of \$180,000. All of the other spending categories (Incentives, Training, Transportation, and Supplies) are allocated to the Grant. (However, the amounts allocated to these other categories do not add up to the grant total and the 2019 End of the Year Spending exceeds the total amount of the Grant plus County Aids).

DHS Fiscal Manager Vickie Gardner explained that with this Grant, the State just needed assurance that all the money allocated in the Grant was spent on legitimate purchases and personnel expenses. While Ms. Keller placed the levy dollars under the "Personnel" category in her Grant budget, she could have allocated the levy funds to any expenditure.

**Conclusion:** If levy dollars were only allocated to Personnel costs, then the theft amounts would have come out of moneys designated to have been paid for out of the Grant. However, there is no clear accounting assigning revenues to expenditures. Therefore, the theft was covered by levy dollars and no Grant dollars were impacted.

**Recommendation:** If possible, controls need to be put in place so revenue sources are allocated to line item spending, where the revenue sources have specifically been designated for certain line item expenditures.

**B. Allegation: Director Cable made misrepresentations to the State, to the DHS Board, to the County Board and to County Administrator Schauf involving the Zer Smith matter.**

*ECCSO "Investigatory Findings": "Diane Cable intentionally and deliberately made false statements, and fraudulent writings in regard to when DCF was notified regarding the theft involving the SPARK program."*

*ECCSO "Investigatory Findings": "Diane Cable falsified documents sent to DCF regarding the theft from the SPARK program."*

**a. Allegation: Director Cable failed to answer truthfully when she was asked if she had notified the State about the theft by Zer Smith.**

On August 11, 2020, a criminal complaint was filed in Eau Claire County Circuit Court against Zer Smith for theft.

On September 9, 2020, County Administrator Schauf sent an email to Board Supervisor Gerald Wilkie, with a copy to Director Cable, indicating DHS had been in contact with the State regarding the SPARK program and implies they have been notified regarding the issue of reimbursement/restitution for the theft.

On December 14, 2020, (at 3:12 a.m.) Supervisor Pagonis sent an email communication to Administrator Schauf asking how the SPARK program ended up, if the State was notified, and how much the County owed the State, as she did not see a reference to restitution in the 2021 budget.

On December 14, 2020, (at 11:17 a.m.) Hannah Keller sent an email to Director Cable indicating that County revenues to the SPARK program would exceed State revenue.

On December 14, 2020, (at 5:09 p.m.) Director Cable sent to Administrator Schauf a draft response to the questions raised by Supervisor Pagonis, indicating the State had been notified of the theft, the theft did not impact Grant funds, and "As the Grant funds were not affected there is no action required by the County with the State."

On December 15, 2020, Attorney Sullivan asked DHS Director Cable how much of the program was tax levy and how much was levy dollars. Ms. Cable responds with a break down the next day.

On December 16, 2020, Director Cable sent an email to Wendy Henderson asking if she was available for a quick call "regarding a potential issue, in Eau Claire, related to the Youth Justice Innovation Grant. This issue is somewhat urgent."

On January 29, 2021, Director Cable sent a letter to the State to document the incident of fraud and to confirm a January 20, 2021 conversation with the State indicating no additional actions are required by the County.

During her investigatory interview, Administrator Schauf said prior to September 2020 and again on December 14, 2020, Director Cable had told her she had contacted the State. Administrator Schauf also thought Hannah Keller, the Program Manager, had contact with the State regarding the matter. (Ms. Keller confirmed that she had NO contact with the State regarding this matter and Diane Cable said she would follow up directly with Wendy Henderson herself).

During her investigatory interview, Director Cable said at some point early on (date unknown), she called Wendy Henderson at the State to ask about the procedure to report fraud. She told them the amount taken did not impact grant dollars and fell to the levy. She said the State did not have any concerns. The State told her to call back when she knew more about the extent and details of the fraud. She said she has no recording or documentation of this call. She said when she later spoke with Ms. Henderson about the matter, she asked Ms. Henderson if she remembered their earlier conversation and Ms. Henderson said she couldn't recall specifically.

**Conclusion:** DHS Director Cable may have been waiting until the Zer Smith criminal proceeding was resolved before contacting the State to provide them with information on the matter. When Director Cable contacted the State regarding fraud-reporting "procedure," she may have been told it would not be an issue if grant dollars weren't involved. However, when Director Cable represented on December 14, 2020, that the State had told her no action was required by the County, it was made before Director Cable had given the State a full accounting of what had happened. Director Cable did not contact the State when the first theft was discovered and Zer Smith's employment was terminated, nor when the criminal complaint was filed on August 11, 2020. It appears that Supervisor Pagonis' inquiry prompted Ms. Cable to provide the State with information about the incident.

**Recommendation:** Director Cable should have provided the State with details of this matter when it first occurred. The email response she crafted to Ms. Pagonis was at best a "half-truth." If Ms. Cable was still employed by the County, we would be recommending these failures be addressed in a performance or corrective action document. If anything like this happens in the future, the State should be provided with the details in a timely manner.

**b. Allegation: Director Cable failed to provide Administrator Schauf with information she received from State officials discussing the possibility of having a forensic audit performed.**

On December 21, 2020, Director Cable received an email communication from the State indicating their State Finance Director was looking into what the specific requirements were on their end and asking questions about the embezzlement. In that email, she asks Ms. Cable to "describe what investigative work as [sic] been done – forensic audit, criminal investigation, etc." The email further states, "I'm hopeful that given the amount of funding involved and the tax levy portion, we'll be able to properly document on our end using what you already have, or have readily available, without needing you to go through hoops."

On January 11, 2021, Director Cable was blind copied on an email between two State officials. The first states, "I believe where we have instances of theft or fraud, we should have a forensic accounting/audit, unless the agency can conclusively provide evidence of its own work to substantiate what is reported. Unless Eau Claire can give us reliable, verifiable proof of its investigation into the theft, we should request a forensic accounting/audit." The second

states in response, "I would agree if the fraud involved state money, but I think the difference here is that while it involved a program partially funded by State dollars, the fraud impact was to local tax levy." There is then discussion about the need to see proof that the theft was from levy dollars. One of the individuals indicates she will reach out to Director Cable and ask for that information.

When Director Cable was asked about these communications during her investigatory interview, she responded that the State had the authority to request a forensic audit, but they did not. She said the State viewed it as DHS did, that the theft impacted the tax levy, not grant dollars.

When these email communications were shared with Administrator Schauf during her investigatory interview, she responded that if Director Cable had shared the State's concern about a forensic audit possibly being required with her, she would have communicated this to the Board and the Board's vote on having a forensic audit may have been different. She believes the Board may have voted to support a forensic audit, or at least a forensic audit of the program.

**Conclusion:** Director Cable should have told Administrator Schauf about the State's consideration of having a forensic audit done. Director Cable was going to great lengths to protect the County's ability to secure grant funding. We believe a forensic audit would have been appropriate, within narrowly-defined parameters.

**Recommendation:** If Diane Cable was still employed, we would have recommended that her lack of communication be addressed in a performance or corrective action document.

\*No remedial action is necessary relative to this allegation.

**c. Allegation: Director Cable made misrepresentations in her January 29, 2021, letter to the State.**

Director Cable sent a letter to the State on January 29, 2021, as documentation of the fraud committed by Zer Smith and as confirmation that no other actions were needed/required by the Human Services Department. In the letter, she states:

*"Eau Claire County Human Services has been able to verify that the Grant dollars were not affected and consulted with County Finance with this review and the total allocation of the Youth Innovation Grant dollars were used for the defined purposes of the Grant program."*

Finance Director Norb Kirk reported he did not talk to Director Cable to confirm this. In his augmentation to the ECCSO's Report, Mr. Kirk explained: "My recollection of the discussion relative to the chart of accounts was that I would have no idea of knowing what accounts were funded by grant dollars, not that there is no way to know that through the chart of



accounts. It is possible that DHS Fiscal could be able to identify specific accounts that were funded by grant dollars based on their knowledge and structure of the chart of accounts specific to DHS.”

Director Kirk and County Administrator Schauf discussed via email that they saw “no way to verify State dollars were not taken.”

Director Cable’s response implies that the County’s Finance Director signed off on the fact that County levy dollars were not impacted by the theft. Administrator Schauf was not aware of Director Kirk doing this.

In her investigatory interview, Ms. Cable stated she did consult with the County Finance Department and DHS Fiscal staff. She said Finance Director Norb Kirk and Administrator Schauf were aware of the discussions of whether the theft was from grant or levy dollars. She did not verify the \$21,777.74 loss with Mr. Kirk.

**Conclusion:** Director Cable’s letter is drafted vaguely enough for one to assume that the County’s Finance Director agreed that no Grant dollars were involved. While Director Cable made have been doing her best to protect the Department’s ability to secure and retain Grant funds, she should have been more precise in her communications.

**Recommendation:** If Diane Cable was still employed, we would have recommended her failure to communicate clearly be addressed in a performance or corrective action document.

In the future, communications of this nature to the State should be reviewed by the County Administrator and Corporation Counsel before they are submitted.

\* No remedial action is necessary relative to this allegation.

**C. Allegation: Figures on Zer Smith loss were different in several email communications found in the ECCSO investigation.**

The ECPD listed 17 unaccounted gift cards, while Ms. Gardner sent an email to Director Cable indicating it was 26.

On December 16, 2020, Director Cable reported to Administration the amount of the theft was \$21,777.74. Again, on January 29, 2021, Director Cable sent an incident report to the State, indicating that the loss was \$21,777.74.

The County received \$10,500 in restitution, in addition to \$850.78 received from Zer Smith after the termination of her employment.

**Conclusion:** The \$21,777.74 figure may have been Director Cable's worst-case scenario. Recordkeeping was not good at that time. Zer Smith entered into a plea deal and the parties arrived at a compromise figure.

**Recommendation:** \* No remedial action is necessary relative to this allegation

**D. Allegation: DHS failed to follow-up when three of seven P-cards used by Zer Smith were closed because of fraud.**

The P-cards Zer Smith used for making purchases were compromised three (3) times and the cards were cancelled. Ms. Smith did the most purchasing for the department and, with more transactions, the risk a credit card could be compromised increases. When the cards were compromised, the bank issuing the credit cards was notified. It is unknown what action the credit card company took in follow-up when the compromise was reported.

On pages 365 and 366 of the ECCSO report, the ECCSO theorizes Ms. Smith may have made additional fraudulent purchases on these cards before they were cancelled. The ECCSO faults its failure to make a conclusive determination on the ECCSO's inability to meet with any one at DHS to review this information.

Fiscal Manager Gardner reviewed Zer Smith's purchasing card transactions going back two (2) years. She also reviewed the activity on \$25 gift cards and found no improprieties and so she concentrated on the \$500 gift cards.

**Conclusion:** DHS Fiscal staff turned over what they had found to the Eau Claire Police Department. If there was additional evidence to be gathered and leads to be followed up upon, it would have been done by the ECPD. This inquiry appears to be an attempt to establish that had the investigation been turned over to the ECCSO, the ECCSO would have done a better job of investigating. It is an extension of the unwarranted assumption Mr. Voelker was advancing when he authored his "SPARK report."

If all the "suspicious" purchases identified by the ECCSO in the report were instances of fraud, the total would still be less than the total levy dollars contributed to the program.

**Recommendation:** Review policies have been put in place to verify all P-card purchases. Tighter controls have been implemented on gift cards.

\* No remedial action is necessary relative to this allegation.

## **VI. Issues/Allegations Regarding DHS Finances**

### **A. May 2020 report of 2019 year-end financial status reporting error.**

On May 26, 2020, Director Cable brought forth to the Human Services Board a reporting error in the 2019 year-end financial status. DHS Fiscal Manager Gardner and Director Cable discussed and reviewed the 2019 year-end financial status and the 2018 CCS Reconciliation Revenue Adjustment **error of \$1,285,974**. This resulted in a budget overage at \$3,359,653 instead of the previously reported \$2,073,679.

On June 2, 2020, Administrator Schauf forwarded to County Board Supervisor Beckfield, at his request, an explanation of the “error,” which was drafted by Finance Director Kirk:

*The “error” impacting the Department of Human Services (DHS) 2019 fiscal results was related to the **projected** final 2019 department fiscal numbers. Since revenue collection trails expenditures on some reimbursable grants and aides, it is typical for the DHS fiscal group to forecast anticipated revenue collections **not yet recorded** in the county financial general ledger system. These forecasts are presented as financial adjustments within DHS management reports in order to project what the final fiscal numbers will be. Since forecasts are not recorded in the general ledger, the DHS fiscal group reviews and prepares monthly financial reports that include both the actual recorded financial transactions in the county financial system, and their forecasts, to provide a more meaningful financial projection of the fiscal results for the DHS Board, as well as other readers. On a monthly basis it is not uncommon to have millions of dollars of anticipated financial transactions not yet recorded in the financial system. As part of the normal year-end financial close process, the DHS financial results are not finalized until June 30th in recognition of the time lag required to get all fiscal transactions properly received and recorded in the correct fiscal year.*

*During an internal review by the Finance Department of the 2019 DHS financial statements and anticipated adjustments, it was determined that there was a potential discrepancy in what the projected DHS 2019 financial statements would be based on the Finance department calculations, versus the projected 2019 financial statements provided by DHS fiscal in their most recent report. Upon further investigation, it was determined that a human error had been made in the forecasted financial adjustments **not yet recorded** in the county financial system, thus leading to an incorrect projection of the 2019 DHS financial results presented by the DHS fiscal group. Given that the county fiscal financial system is open*

*to record DHS transactions at year-end until June 30th, and given the number and magnitude of anticipated adjustments during that period, it would have been difficult to determine that an error had been made in the projection much sooner than it was discovered. (original emphasis).*

**Conclusion:** A human error was reported to the Board. It was not intentional. There was no error in the accounting system itself. Wipfli's forensic analysis into the financial practices of the Department of Human Services Department from 2017 to 2021, does NOT include any finding that would refute the fact that this was a human error.

**Recommendation:** This matter needs to be put to rest. No remedial action is necessary relative to this allegation.

**B. Perception that DHS spends levy dollars while it waits for reimbursement from the State and then does not return the levy dollars to the County when it is reimbursed.**

**Conclusion:** This is a perception, not a reality. As set forth above, DHS has struggled for many years, but is in a much better financial position.

**Recommendation:** The entire County Board may benefit from a tutorial on County Finances, including DHS funding and reimbursement. According to DHS Fiscal Manager Gardner, DHS has 158 revenue accounts and 765 expense accounts broken down by program area.

**C. Allegations of conflicting financial information being provided; accounting errors.**

a. Alleged inaccuracies in financials.

*ECCSO "Investigative Findings": "There were numerous inconsistencies and discrepancies in empirical data provided to a County Board Supervisor. Again, we are unable to determine if this was human error or intentional since we are unable to interview the individual(s) who drafted the document."*

*ECCSO "Investigative Findings": "There were numerous differences and inconsistencies in financial statements presented to various committees. This is a potential indicator of fraud, however in order to determine if it is fraud those involved in drafting these financial statements would need to be interviewed. We have been unable to speak with those individuals."*

An assertion was made that "fraudulent" financial information is being provided to the DHS Board and County Board in that DHS' Budget (Total Budget) numbers do not match the number that Director Kirk provided to the ECCSO on June 10, 2020, from a May 18, 2020 DHS Board meeting and those that were provided at different meetings.

YTD Net Budget number listed on the “Financial Statement Estimated for the Period of January 1, 2019 through December 31, 2019 Preliminary” which was provided to the Human Services Board at their May 18, 2020, meeting (\$31,402,488) was different than the YTD Net Budget number listed on the same Financial Statement provided to the Human Services Board on February 24, 2020 and to the County Board on June 16, 2020 (\$31,292,518).

The DHS 2019 Budget as reported by the DHS Fiscal Department was increased between February and May 2020 to account for new incoming Grant funds: \$79,970 for a new JAG Grant and \$30,000 for a new MAC grant. The Financial Statement provided to the County Board on June 16, 2020 by the Finance Department did not account for these additional Grant funds.

Without going into extensive detail and investigation into other allegations of inconsistent figures, it is our understanding that some of the differences were due to when the information was collected and the parameters used to collect the information. According to DHS Fiscal Manager Gardner, DHS has 158 revenue accounts and 765 expense accounts broken down by program area.

When conducting its analysis, the ECCSO questioned expenses based on the description in various reports. For example, on page 223, there is discussion of “shooting range expenses.” According to Fiscal Manager Gardner, the “shooting range” reference was an example where an account number was reused without changing the object description. Social workers are authorized to spend a maximum of \$30 per outing to take chronically mentally ill clients into the community, which is billed to “client incentives.” They are not going to shooting ranges. DHS Fiscal Staff has been working with the County Finance Department to refine and rename accounts more accurately.

**Conclusion:** There were no errors or attempts to hide funds when these different YTD Budget numbers were provided to various committees. The County Finance Department and DHS Fiscal Staff are continuing to update and refine their accounting systems and reporting.

**Recommendation:** If a County Board member has a question about possible inconsistent account numbers, they should ask for an explanation in writing from the Finance Director or DHS Fiscal Manager, with a copy to Administrator Schauf.

\*No remedial action is necessary relative to this allegation.

b. Joxel Hotel Expenses.

A consultant, Joxel, was hired to assist DHS with fiscal reporting. The ECCSO found a document which they believe indicates their hotel expenses were paid for out of “family crisis funds.” ECCSO also obtained a copy of the same document in which the hotel transactions are circled. (pages 49-51)

Joxel was hired to work on DHS' electronic management system, Avatar. Director Cable indicated their work was budgeted under "Overhead." Part of their contract included covering hotel expenses.

Someone entered the wrong account number for the Joxel hotel expenses. The circles on the document were made by a member of the DHS Fiscal staff who noted the wrong account number had been entered and then corrected it.

**Conclusion:** Joxel's hotel expenses were NOT charged to "family crisis funds."

**Recommendation:** \*No remedial action is necessary relative to this allegation.

- c. Account number discrepancies or dollar amount discrepancies in DHS reimbursement deposits.

*ECCSO "Investigatory Findings": "There were errors, delays, and discrepancies in LGIP deposit information that were provided to the County Treasurer's Office from DHS."*

**Conclusion:** Looking at the documentation, it appears occasional mistakes were made. This is part of the checks and balances system and an area for continuous improvement.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

- d. Discussion of buying lunch for training out of CCS funds.

Director Cable explained there are indirect costs, such as meals, associated with holding trainings which can be charged to the program. These indirect costs are reimbursed at 100% as part of the reconciliation.

**Conclusion:** There may be instances when meals can be charged to a program. When staff has a question on whether a meal is chargeable to a program, they ask.

**Recommendation:** \*No further remedial action is necessary relative to this allegation.

#### **D. Failure to take sufficient action to eliminate the risk of fraud in DHS.**

- a. Failure to implement the recommendations in "DHS SPARK Program 'P-Card' Final Report."

*ECCSO "Investigatory Findings": "Additional fraudulent activities may be occurring related to the SPARK program, that was never investigated or audited by DHS."*

In her investigatory interview, Administrator Schauf explained that Administration needed to understand a problem fully before it can be rectified. Many of the items in the SPARK report had already been implemented and others did not and do not make sense to Administration. DHS Director Cable does not recall getting a copy of or seeing Mike Voelker's final report. She believes that Fiscal Manager Vickie Gardner went over the document with Finance Director Kirk and they reviewed it together. However, former Administrative Operations Manager Frank Draxler was the point person when this report was generated.

Ms. Gardner explained that she and Finance Director Kirk went through the SPARK report, and responded to each recommendation, noting what had been done, what needed to be done, and what did not make sense or was not appropriate. They then put together a timeframe for completing the items that needed to get done.

**Conclusion:** The mechanisms are now in place to verify purchases and the use of gift cards. The Finance Department and DHS Fiscal Services have made great strides in implementing financial controls to protect the County from incidents of fraud.

**Recommendation:** In order to put this matter to rest, after necessary redactions are made to the "DHS SPARK Program 'P-Card' Final Report" to protect the privacy interests of any clients or employees, the report should be shared with the Finance & Budget Committee, but ONLY with commentary and input from Administrator Schauf, Finance Director Kirk, and DHS Fiscal Manager Gardner on remedial action taken to date.

b. Failure to audit and provide safeguards to prevent theft of items in DHS safe.

On August 28, 2020, an email from Fiscal Associate II John Bodkin to Vickie Gardner, states:

*"Attached is an approximate count of everything in the safe. The total is \$35,770. The Strengthen Families incentives is not in the safe. I told Chelsey about it one time, but I'm sure she got busy with other stuff at the time. It was accounted for one-time last December. I've never seen it, and I don't know whose program that is."*

On September 9, 2020, there is a series of emails putting internal controls in place for the safe. They began with daily reconciliation with two people and ended up with a weekly reconciliation.

Pursuant to DHS Director Cable, the safe is kept in the Fiscal area. Petty cash, Goodwill vouchers, gas cards and anything else that Fiscal determines needs to be safeguarded is kept in the safe. DHS receives a lot of Goodwill vouchers and Kwik Trip gas cards and other incentive gift cards. Staff members make requests for the vouchers as needed. Fiscal has a written policy/process to account for what goes in the safe; who goes into the safe; and who reconciles the money in the safe and how often.

**Conclusion:** DHS did not previously have an effective policy in place to safeguard gift cards and vouchers. They now have tighter controls in place and a copy of their written Safe Balancing Process was provided to us.

**Recommendation:** \*No further remedial action is necessary relative to this allegation.

c. Failure to move DHS Fiscal into the County Finance Department under the Finance Director.

*ECCSO "Investigative Findings": "Schauf was aware there were issues involving the DHS fiscal department in 2020. Schauf's recommendation to Kirk at that time was that he should supervise DHS fiscal, yet DHS fiscal still remains independent to date."*

**Conclusion:** Finance Director Kirk has been working closely with DHS Fiscal Manager Gardner and her staff on financial issues. DHS Fiscal is not operating independently.

**Recommendation:** Finance Director Kirk will be retiring this year and interviews are occurring to name his predecessor. Discussions on whether to change the reporting structure can continue after Director Kirk's predecessor has been hired.

\* No remediation action is necessary relative to this allegation.

d. DHS did not have a good procedure for monitoring P-cards, expenses or vouchers.

It is true that before February of 2019, DHS did not have a good procedure for monitoring P-Cards, expenses or vouchers. DHS Fiscal Manager Gardner took over the auditing function and began implementing procedures which enabled her team to detect the Zer Smith theft. Since then, they have continued to update and expand the process.

In January 2022, someone found a desk in a third-floor storage room that still contained client information and gift cards. Vouchers were also found in a desk drawer by a worker. An employee left their employment with the County and some gift cards were found in their desk at a later date. Gift cards and Goodwill vouchers are now kept in a safe in DHS Fiscal.

**Conclusion:** DHS did not previously have good control measures in place for safeguarding gift cards and Goodwill vouchers. Proper procedures are now in place.

**Recommendation:** \*No further remedial action is necessary relative to this allegation.

e. Alleged deactivation of safeguard to prevent budget overage.

On page 35 of the ECCSO report, the ECCSO alleges systems and safeguards in the DHS Fiscal software were intentionally turned off or deactivated.



DHS has two systems: Alio which is its fiscal software and Avatar which is its electronic health records system. Avatar has some financial information in it, but it is not a true accounting system. DHS at one time tried to use Avatar as a budgeting tool, and it did not work well, so they turned off this feature. Chelsey Mayer was a new employee and was merely asking a question about the Avatar system.

**Conclusion:** DHS did NOT intentionally turn off or deactivate an alert that was meant to prevent a budget overage.

**Recommendation:** \*No further remedial action is necessary relative to this allegation.

f. Suspected fraud in reporting Children's Long-Term Support (CLTS) billable hours.

On page 162, of ECCSO's report, the ECCSO tried to interpret a Cisco Jabber message between two DHS employees and surmised their communication to "tweak" billable hours may be an indicator or criminal conduct.

Every fall DHS has to provide the State with information on the salaries and productivity of each person working in the CLTS program so a billable rate can be determined for the upcoming year. These two Fiscal employees were having a discussion on how to fill out the worksheet provided by the State. In this process, anticipated productivity percentages may be "tweaked" as they work to establish the correct billing rate, which the State has to approve. The employees were NOT discussing tweaking billable hours to be submitted to the State for reimbursement.

**Conclusion:** This is another example of the ECCSO reaching an unwarranted conclusion based on speculation and conjecture. Such unwarranted conclusions damage the reputation of the County. To assert there may be fraud in seeking reimbursement from the State based on one misinterpreted Jabber message reflects an unreliable methodological approach.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

g. Potential misuse of electronic signatures.

During ECCSO's investigation, von Briesen was apprised that DHS staff signatures were being stored in electronic files.

When von Briesen notified Administration and Corporation Counsel of this issue, they began drafting a formal electronic signatures policy. An Assistant Corporation Counsel has been working on the policy in conjunction with Information Systems Director Dachel. When the policy is complete, it will be presented to the Human Resources Committee for inclusion in the employee handbook.

**Conclusion:** The use of electronic signatures likely increased substantially during COVID when employees were working remotely so they could receive verbal approvals and then add their supervisor's signature. In some cases, the signatures were stored in a word program and cut and pasted into documents. In other cases, specific programs/software are used. Rather than specifically list the programs/software employees may use in a policy (as the purpose and use may vary by department), Information Systems will require any version used comply with specific parameters.

**Recommendation:** The electronic signatures policy file needs to be finalized, approved by the Human Resources Committee for incorporation into the Employee Handbook, training needs to occur, and a document search should be done to delete any unauthorized signature files.

## **E. DHS Spending Practices**

- a. **Allegation: DHS does not follow fiscal policy to buy least expensive items available to meet needs of the department or a client.**

During her investigatory interview, Administrator Schauf explained that this is a perception issue which she and DHS Director Cable have discussed. The County Board does not understand the complexity of DHS programs and their statutory obligations to provide services.

During her investigatory interview, Director Cable explained that Purchasing Manager Greg Bowe was interviewed by the ECCSO shortly after joining the County as a new employee. Mr. Bowe didn't understand the various DHS programs and the reimbursement process. Because Mr. Bowe was not a DHS employee, he could not be provided the HIPAA training necessary for him to be granted full access to individual plans of care to verify DHS program purchases.

Clients are approved by the State to receive services and incentives. Within the Children's Long-Term Support Program, once the client is determined to be eligible for the program, a plan is put in place to address the functional needs of the client. The plan of care must be approved by the State. There is a paper trail that must be submitted to the State to receive reimbursement for the services provided. The parent has a voice in the process as to what services/incentives the child needs to be successful. If a child is found not eligible for a particular service/incentive, they have to go through an appeal process to obtain approval.

According to the ECCSO Report, on June 10, 2020, Detective Greener interviewed Nancy Williams, an administrative assistant within the Eau Claire County Purchasing Department. Ms. Williams stated when reviewing numerous purchases and credit card transactions, she questioned some of the transactions. She said she participated in a meeting with representatives from DHS who explained the purchases were reimbursed by grant funds and DHS was allotted a certain amount of money for purchases. She said she asked specifically about the purchase of mahogany highchairs and was told the family wanted to purchase

chairs that matched the trim in their house. She told Detective Greener after the meeting she questioned additional purchases which she brought to Operation Manager Frank Draxler's attention, who said he would follow-up with Ms. Cable about them. Eventually she stopped asking Mr. Draxler about the transactions.

In Administrator Schauf's augmentation to the ECCSO Report, she includes a memorandum drafted by Finance Director Kirk dated June 16, 2022. Apparently after Detective Greener spoke to Ms. Williams, Sheriff Cramer confronted Administrator Schauf and told her Ms. Williams "had a 'stack' of invoices supporting potential wrongdoing by DHS and that she was fearful for her job if she raised concerns." Mr. Kirk held a discussion with Ms. Williams, Mr. Draxler and Human Resources Director Rubin to discuss the Sheriff's assertion. They memorialized their discussion in a memorandum addressed to Administrator Schauf. The memorandum stated that once completed, it would be shared with Ms. Williams and the Sheriff.

Ms. Williams explained that she had no documents proving wrongdoing; that the only ones she had questions about, she did not have a conversation with anyone that indicated she was fearful of losing her job; and that there was only one questionable purchase she still had a question about which she raised to Finance Director Kirk. Mr. Kirk explained it would be addressed during the normal P-card audit process. They discussed "that the current P-card audit process is intended to review questionable purchases and in addition support fiscal responsibility for purchases. It was noted that the State also audits purchases done by DHS."

During our internal investigation, we asked for explanations for many of the purchases questioned by Ms. Williams and the ECCSO. There were logical and justifiable explanations for each. For example, the "swimming" pool was purchased for a severely disabled child with the approval of the State who needed it for therapeutic purposes. Purchases such as the "mahogany high chair," was again for a disabled child and purchased for its long-term durability, allowing the parents the dignity of having input when a selection is made. The "Victoria Secret" purchase was made by a young client who, as a reward, was allowed to make a purchase at a store of her choice at the mall.

Deputy Director Ron Schmidt was asked to comment about the allegations made in a Facebook post, which was consistent with many of the unwarranted rumors and innuendos triggered by the ECCSO's report:

*"Despite the reference in this post, the department is previously aware of these concerns. Operationally we have adequately addressed the perceived and objective issues. An employee in the role of an IPS (intensive permanency specialist) performs an intensive and creative service to children in out-of-home care and/or awaiting termination of parental rights (TPR). They are expected to make intensive relationships with these children to address the trauma of abuse/neglect suffered and to address the trauma of TPR and*

*potential lengthy period in care, including potential aging out of care without any other supports than what the department provides.*

*While the items listed may seem sensational or excessive, department admin reviewed this issue years ago and have determined the circumstances are not abnormal or unexpected. There is no evidence of misuse of public resources as described in the post by a former, terminated employee. We will continue to address such children experiencing catastrophic trauma due to the termination of parent relationships as well as trauma from abuse/neglect of which they were victims. Point of information; skydiving is misrepresented here, as this was an activity that simulated skydiving, no actual plane or jumping."*

Fiscal Manager Gardner noted they have now implemented a procedure wherein staff has to provide more information to DHS Fiscal when a specialty purchase is made for a child receiving long term support to assist them in their oversight.

**Conclusion:** DHS is allowed to make expenditures for clients which are approved by, and funded by, the State. There is a paper trail to justify each purchase. While some purchases may sound extravagant, they are not. Reviews and audits are in place to monitor spending.

**Recommendation:** \* No remedial action is necessary relative to this allegation.

- b. **Allegation:** DHS spends money without determining measurable outcomes. **Example:** Trinity Equestrian (told outcome was "good.") WIPFLI audit found payments made without invoices and discrepancies between amount paid and invoice amount.

According to Fiscal Manager Gardner, if Trinity does not provide the proper documentation to verify a service, they will not be paid for that service. The rate to be paid for each service varies depending on the type of service and who provides the service. If the rate on the invoice is incorrect, DHS corrects the rate. This may result in Trinity being paid more for a service than they originally billed.

**Conclusion:** Duplicate payments were found. Procedures have been put in place to avoid duplicate payments.

**Recommendation:** \*No further remedial action is necessary relative to this allegation.

c. **Allegation: DHS is not conservative with their spending when they are already over budget.**

i. Upgraded Airfare and Hotel Stays.

*ECCSO "Investigatory Finding": "DHS staff have received upgraded airfare and hotel stays. Several of these upgraded hotel stays occurred when DHS was already significantly over budget. There were also vendor hotel stays, vendor and staff meals paid for with family crisis funds."*

*ECCSO "Investigatory Finding": "In an interview with former DHS Operations Manager, Sue Schleppenbach, she denied that any DHS staff received upgraded hotel rooms and airline reservations. This is not accurate."*

On 11/10/18, there was an airline seat upgrade for a DHS employee. The flights purchased on 11/30/18 were for travel on 12/2/18 and 12/3/18. We were provided with receipts showing the airfares purchased by Zer Smith for Nicholas Stabenow-Schneider. Caseworker Stabenow-Schneider was transporting a child under a Child in Need of Protection and Services (CHIPS) Order to Phoenix, Arizona for an extended visit with his maternal grandmother pursuant to a Court-Ordered Travel Request. The additional charge was for a seat preference on the flight out from Minneapolis to Phoenix. Both the flight to Phoenix and the return flight to Minneapolis were in the "Economy" section. The "seat preference" for the flight to Phoenix was for an aisle seat to best accommodate the worker, traveling solo, with an 18-month old child. The other option would have been to purchase an additional seat.

In the ECCSO report on page 56, there is reference to a \$367.97 transaction at the Kalahari Resort in Wisconsin Dells for a three (3) night stay. The ECCSO asserts that a reservation request was made for a "Whirlpool Suite." DHS staff were at the Kalahari for a conference. This particular Manager had been hired after the cutoff for conference registrations and no "Standard" rooms were available. Members of the DHS management team discussed whether the employee should forego the conference because of the added expense, but determined it was in the best interest of the department that the new Manager attend the conference with her staff.

**Conclusion:** DHS staff do not receive upgraded hotel rooms and airline reservations absent extraordinary circumstances. There was a legitimate reason for the seating preference. It was not a seat upgrade.

**Recommendation:** \*No further remedial action is necessary relative to this allegation

ii. Single Hotel Rooms.

On 03/027/19, two DHS employees attended a conference and each had their own room.

During our meetings with the ECCSO, the ECCSO took issue with the fact DHS employees are not required to share rooms when traveling. The ECCSO staff are required to share rooms.

County DHS employees are not required to share rooms for privacy reasons; even pre-COVID. It is up to the employee if they want to voluntarily share a room with another employee.

**Conclusion:** This is a reasonable policy.

**Recommendation:** \*No remedial action is necessary relative to this allegation

iii. 30 rooms were booked at the Hyatt Regency in Minneapolis on 04/23/19 for an ALIA training for 30 people.

During her investigatory interview, Director Cable was asked why she sent 30 people to a training in Minneapolis on 4/23/19 instead of bringing the trainer on-site. She indicated a decision must have been made that it was better to hold the training off-site. Staff tend to pay better attention to training when the training is conducted off-site because they are not distracted by phone calls and emails, etc. Staff are not required to share rooms to respect their privacy.

**Conclusion:** There are benefits to conducting off-site training. Consideration should have been given to securing a place in Eau Claire to hold the training to avoid the lodging expense.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

iv. Four DHS employees (Tom Wirth, Steve Nelson, Wendy Chestnut, and Vickie Gardner attended a conference in Washington, D.C. on 5/16/19 to 5/18/19, with total hotel costs of \$4,866.78.

This conference addressed the County's Electronic Health Record System, Avatar. This system is used to track client information. It is the main software system used for tracking client information, billing, reporting, and authorizing services. The conference provided valuable information and networking opportunities. Several conference tracks were offered and the attendees went to different sessions.

**Conclusion:** A legitimate explanation was given for this expenditure.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

v. Unbudgeted donation to Homeless Initiative.

Director Cable indicated that this was a very important initiative. When expenses such as this come up, DHS looks to see if they can contribute, and if they can, to what extent. This is typically charged to training & consultant overhead (incidentals). County DHS agreed to be a partner with this event. Within their budget, DHS has some incidental overhead to fund activities like this.

**Conclusion:** When DHS Fiscal was made aware of this expenditure, Ms. Gardner followed up with Deputy Director Tom Wirth to determine which account to charge it to.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

**VII. Lack of transparency with the County Board regarding ALIA.**

**A. Financial Impact of Change.**

On May 20, 2019, the Human Services Board, the Committee on Administration and the Committee on Finance and Budget held a joint meeting. At this meeting, Dr. Amelia Franck-Meyer, CEO of Alia UnSystem Innovations, made a presentation on System Change. She was reported as saying the County would experience increased costs, based on a change in the way DHS operated, and it would cost the County \$2-\$3 million dollars a year. Some Supervisors felt a change of this nature should be approved by the County Board because of the financial impact to the County.

During her investigatory interview, Administrator Schauf explained The Families First legislation changed how DHS is required to operate going forward. Per state mandates and federal requirements, the County was required to change the way they did things if they wanted to continue to receive certain state/federal dollars. It was a philosophical shift. Amelia Franck-Meyer spoke to the Committee regarding the changes and why they were necessary. The Committee did not understand or embrace it. The presentation “backfired.”

Administrator Schauf does not agree with the statement, “changing the way DHS operates could cost the County an additional \$2 to \$3 million per year.” ~~While she was not present for the meeting.~~ She does not believe that was what the ALIA representative said. Eau Claire County has stabilized these programs and it didn’t cost more, it was just different. Law enforcement was opposed to this change because they were used to removing children from the home.

Out-of-home placements are very expensive and it is more economical to keep children in the home. When she came to Eau Claire County in July of 2015, youth were aging out of youth service programs. Ms. Schauf believed this shouldn’t be happening.

In 2018-19, there was a big spike in cases due to meth use and the need for care. It caused a large back up of cases. This over budget issue was going to happen no matter what.

During her investigatory interview, Director Cable explained ALIA made a presentation to the Committees on a structure and plan for a program in Year 1, 2 and 3 and explained there would be operational and fiscal components. "People heard different things at that meeting with Amelia from ALIA." The mission of DHS is "family connections are always preserved and strengthened." The department was over budget in 2019. The recent shift in focus has had a positive fiscal effect.

**Conclusion:** As stated above, per State mandates and federal requirements, the Department of Human Services was required to change the way they did things if they wanted to continue to receive certain State/federal dollars. This is a matter for County Board education, but not a matter for debate.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

**B. Alleged misrepresentation to Board on cost of ALIA.**

On June 18, 2019, Diane Cable made a report to the County Board regarding DHS's budget. After her presentation, Supervisor Cronk asked Director Cable to clarify for the Board how much it costs the County to work with ALIA. Director Cable replied, "So we are part of a cohort in which we were invited to be part of it and we don't pay to be part of the cohort."

During her investigatory interview, Director Cable explained the County was not charged to be part of the ALIA consortium. DHS did purchase additional services from ALIA, including training and workforce well-being work. As noted below, DHS contracted with ALIA for some of these services after this meeting.

**Conclusion:** When Director Cable was speaking to the County Board, she gave a very narrow answer regarding the consortium. We do not believe she was dishonest in her response, but she should have explained the staff time and travel expenses associated with being a member of the consortium. She also should have gone on to explain the additional services that DHS was purchasing from ALIA.

**Recommendation:** If Director Cable was still employed by the County, we would have recommended that her lack of candor be addressed as a performance issue.

\* No remedial action is necessary relative to this allegation.



**C. Payments made to ALIA for services rendered.**

*ECCSO “Investigatory Findings”: DHS was paying ALIA for services. ALIA for whatever unknown reason refused to provide documents to us thus a search warrant had to be obtained.”*

The latter part of the ECCSO “Findings” is outside the scope of this internal investigation. We did not do an analysis of whether ALIA would have been subject to Wisconsin’s public record laws. We did follow-up on the type of services provided to DHS by ALIA.

During her investigatory interview, Director Cable explained that there were vendor payments to ALIA for providing intensive permanency services (IPS) training. ALIA was used to train staff on the methods of providing these services. It is an evidence-based model. ALIA was also involved in well-being training work. In determining whether to conduct training on-site or off-site, Director Cable looked at what they are trying to accomplish and whether it can best be accomplished virtually or on-site.

During her investigatory interview, Administrator Schauf explained, “the goal of the program shift is to leave children in the home and work with the parents to provide services in-house for the child to be able to succeed. It is a shift in perspective. It was hard for social workers to make the shift. It requires risk assessments and program supports. “We cannot afford to fail here.” There is a huge liability risk if a social worker makes a mistake and a child is harmed in the home.

**Conclusion:** Administrator Schauf and Director Cable have provided justification for why ALIA’s services were retained.

**Recommendation:** \*No further remedial action is necessary relative to this allegation

**D. Allegation of hiding payment to ALIA.**

Expenditures of \$10,000 or more go to the County Board for review. DHS entered into a one-year contract with ALIA from April 1, 2020 through April 30, 2021 for “Workforce Well-being Groups” for \$9,692.31 per month (\$126,000 max.) to provide “virtual well-being services.” The County already had a contract with “REALiving” to provide “well-being services” to County employees.

During her investigatory interview, Director Cable noted the contract covered a 13-month period. \$126,000 divided by 13 is \$9,692.31 per month. While the contract did not have to be included in information provided to the County Board, she kept the Human Services Board apprised of her contracts with ALIA. REALiving wellness services were not the same as the services offered by ALIA. The ALIA services were geared to helping support social workers through the program changes.

**Conclusion:** The contract terms did not fall within the criteria to be included in an accounting for the County Board. This expenditure was not being “hidden” from the Board.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

**E. Allegation of failing to mitigate losses by contracting with ALIA.**

On September 28, 2020, a contract is signed for ALIA to provide “Additional Consulting, Training and Technical Assistance Services.” The ECCSO took issue with the fact that this is the same day the DHS Board meeting was held with an agenda item stating, “Actions – Continue to manage program areas within budget through established processes – Mitigate lagging revenues through decrease of expenses in personnel vacancy management and management of contract utilization.”

The September 28, 2020 meeting agenda does NOT include an item as listed above. It includes a review of June and July 2020 Financial Statements and a review and update of the 2021 Budget. During her investigatory interview, Director Cable explained she signs a lot of contracts and did not realize she had signed a contract with ALIA on the same day as a Human Services Board Meeting. She defends her decision to retain ALIA for these services. She did not feel REALiving could provide the same level of well-being training as ALIA could; supporting DHS staff through COVID-19, world events, and job stress is distinctly different.

Director Cable remembers a discussion at the September 28, 2020, meeting about mitigating lagging revenues, decreases in expenses and personnel, vacancy management and management of contract utilization.

**Conclusion:** There was nothing nefarious about Director Cable signing a contract for services on the same day as the Human Services Board is discussing department finances.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

**F. Check issued to Director Cable by ALIA.**

*ECCSO “Investigatory Finding”: “Cable received a personal check from ALIA which she cashed at a check cashing business. Since we have not been able to speak with Cable it is unknown if she received a personal benefit from ALIA.”*

*On 8/15/18, ALIA issued Director Cable a check for \$168.00*

During her investigatory interview, Director Cable explained this check was a reimbursement for travel expenses (either mileage or a rental car) associated with the consortium.

**Conclusion:** There is no evidence Director Cable received a personal benefit from ALIA.

**Recommendation:** \*No remedial action is necessary relative to this allegation.

### **VIII. Additional Allegations Against Director Cable**

- A. Director Cable traveled to a conference in Washington, D.C. in April 2019 and Hyatt reward points were associated with this stay.

*“ECCSO “Investigation Finding”: “Diane Cable has a Hilton Honors account. Supporting documentation and an interview with Cable would be necessary in order to determine if Cable accrued reward points from County-expensed hotel reservations for personal use. Since we were unable to interview Cable, we were unable to determine this. If Cable did personally utilize reward points for non-County business it may possibly constitute theft and/or misconduct in office.”*

*“ECCSO “Investigative Finding”: “Diane Cable has an Enterprise Plus Rental Car account. Supporting documentation nor an interview with Cable was able to be obtained during this investigation. Therefore, we are unable to determine if Cable utilized any accrued reward points from County-expensed rental car reservations for personal use. If Cable did personally utilize reward points for non-County business it may possibly constitute theft, and/or misconduct in office.”*

Director Cable was asked about this allegation during her investigatory interview. She explained that she has a personal credit card that has Hyatt Rewards points attached to it. She was not aware of the rewards points and has never used them. Her husband used to travel for work with this credit card. Director Cable did not have a County P-card and she did not want one. At the hotel, they always ask for a personal credit card to put on file to cover incidental expenses.

**Conclusion:** There is no evidence that Director Cable obtained and used reward points during County travel for her personal benefit. The County’s Purchasing Card Policy includes a section prohibiting employees from obtaining reward points for personal use when on County business.

**Recommendation:** \*No further remedial action is necessary relative to this allegation.

- B. **Allegation: During the June 16, 2020, County Board meeting, Director Cable misrepresented that Eau Claire County has the second highest poverty rate in Wisconsin.**

*ECCSO “Investigatory Finding”: “DHS and Diane Cable have made statements that one of the reasons for their continued budget overages was that Eau Claire County had the second highest poverty rate in the state. This was proven to be inaccurate.”*

During her investigatory interview, Director Cable explained she shared the information she was shown at a State meeting. The figures she was shown indicate Eau Claire, Chippewa Falls and Milwaukee have poverty rates higher than the State poverty rate. The purpose of this information was to help educate individuals as to why poverty information is important.

**Conclusion:** There are many sources of information available from various resources on poverty levels.

**Recommendation:** If Director Cable was still employed, we would have recommended that she be counseled on providing source information to back up any State statistical information she shares with the County Board.

**C. Allegation: Director Cable did not complete the travel forms that other employees have to complete before hotel rooms were booked.**

Director Cable explained that Administrator Schauf does not approve Department Head travel unless it is out-of-state. Director Cable submits the same paperwork for mileage reimbursement as every other County employee. Director Cable asserted Department Heads do not fill out the internal travel/training form because they are the ones who would be approving the form once it is completed. She saw completing the form and then signing off on it unnecessary.

**Conclusion:** Even though she would be approving her own travel, it would be best to have a consistent method of documenting travel.

**Recommendation:** If they are not otherwise doing so, Department Heads should be instructed to fill out internal travel/training forms.

## **IX. Ethical Issues**

On July 7, 2022, von Briesen authored an Ethics Opinion regarding an issue that arose during the course of ECCSO's investigation. This Opinion letter was only shared with Corporation Counsel. At that time, we also recommended the County update its Code of Conduct and provided samples to the Corporation Counsel. We also discussed the need to update the Ethics Reporting form for County Supervisors.

On May 16, 2023, we subsequently authored a second Ethics Opinion regarding additional allegations made against this Supervisor. In this Ethics Opinion, we also made recommendations to (1) clarify portions of the County's new "Code of Conduct and a Conduct Inquiry Board," (2) revise the County Board Conflict Disclosure Form to incorporate the new code sections and add more detail, and (3) to conduct additional Board training.

Both of these Ethics Opinions have been provided to the Supervisor whose conduct was questioned. Pursuant to Wis. Stat. §19.59(5) (a-b) and Eau Claire County Code 2.08.080 F.1., these opinions are not subject to public release without the permission of the Supervisor. This Supervisor did NOT give his

permission to release copies of the Ethics Opinions, but did give us permission to explain and summarize our conclusions in closed session with the Board.

**Recommendation:** We recommend that additional training be done with all County Board members on new Chapter 2.08 of the County Code, to include fact scenarios to illustrate the various provisions and the opportunity for County Board members to ask questions.

**X. Summary of remedial actions that have occurred to date**

Throughout this report, we have provided information on the remedial measures taken to date to address the issues in the ECCSO's investigation. Many of these remedial actions were already in process before their investigation began. Fiscal policies and procedures have been continuously updated and refined. Below are some of the highlights:

**A. Electronic Signatures:** Restrictions are being placed on the use of electronic signatures. A policy has been drafted to be included in the Employee Handbook and is in its final stages of completion.

**B. Purchasing Cards:**

- The County has a detailed Purchasing Card Manual which is being continuously updated. Anyone authorized to use a P-Card must review the manual and sign a user agreement.
- In November/December of 2019, the Finance Department started doing some P-Card audits as a starting point.
- In 2020, Finance started more of an official internal audit program.
- Throughout 2020, they have refined the process and methodology that they continue to use today based more on the number of transactions than dollars spent.
- On May 11, 2022, City/County Purchasing Manager Greg Bowe sent out a copy of the policy to all P-Card holders asking them to sign and return an attached acknowledgement form. He noted there were no new updates since the 2021 revisions and "any cardholder that has not returned a signed acknowledgement within 30-days is subject to card de-activation." The Policy is a 19-page manual ("Eau Claire County Purchasing Card Manual.")

**1. Gift Card Management:**

- The Eau Claire County Purchasing Card Manual provides that a P-card may be used for "Gift Cards or other Prepaid Cards for programs such DEC (Drug Endangered Children) when authorized in advance and carried out through the established Eau Claire County Pre-Paid Card Program, which outlines program approval, documentation, and disbursement."

- A Pre-paid card (gift card, fuel card, phone card, etc.) policy has been implemented. The procedure includes:
  - o two (2) pages of instructions,
  - o a flow chart,
  - o a Pre-Paid Card Program Approval Form,
  - o a Pre-paid Card Disbursement Form,
  - o a Pre-Paid Card Receipt Verification Form, and
  - o a Pre-paid Card Log Template.
- Greater oversight for use and accounting of gift cards is occurring.
- Periodic audits are being conducted on gift card management. For example, the Veterans Service Commission minutes of September 22, 2021, state: “Reviewed the recent audit completed by the County that found no deficiencies with gift card management.”
- DHS now keeps gift cards and Goodwill vouchers in a safe. Social Workers are not allowed to store them in their desks. A written procedure has been drafted for reconciling the contents of the safe on a weekly basis.

**2. Reward Points:** The Purchasing Card Manual has a section addressing reward points:

- “When purchasing for Eau Claire County employees may not use personal membership cards, credit cards, club memberships, or other benefits cards where anyone other than the county will receive a cashback bonus, travel points, credits, future benefits and/or will receive any type of personal benefits from the Eau Claire County purchase transaction.”

**C. Fiscal Management:**

- Finance Director Kirk and DHS Fiscal Manager Gardner have been working to implement additional policies and procedures to better manage the County’s finances.
- The County has established the new position of “Internal Control Specialist” who “assists the Finance Director with the design and development, training, and support of the internal audit functions for the County including internal audit documentation, processes, and procedures.”
- Fiscal audits of DHS are done by both the County’s external auditor and the State of Wisconsin. In addition, audits may be done on specific grants. During the audit process, fiscal staff are interviewed and asked to provide documents.

**D. Miscellaneous:**

- Lighthouse. In 2021, Administration/HR updated its complaint procedure with a flow chart and sent it out to employees. There are several avenues an employee can utilize if

they have a concern, one of which is the County's Anonymous Hotline called "Lighthouse." Lighthouse Services was engaged by Eau Claire County in April of 2016 to allow employees to submit complaints without fear of retaliation. It is our understanding the submissions are reviewed by Administration for follow-up. We would recommend the Corporation Counsel's office also review the submissions.

- The County has implemented a new ordinance, Chapter 2.08, Code of Conduct and Conduct Inquiry Board.

#### **XI. Additional Recommendations**

- A. Accounting Issues: We recommend that descriptions for accounts and/or line items be provided where possible to provide more guidance on where expenses should be charged. For example, define what can be charged to "overhead/professional services." Some of these definitions may vary depending on the type of grant.
- B. Public Record Law training. We would recommend County Board Supervisors, Department Heads, and members of the Sheriff's Office attend public records laws training. Throughout the report, there is reference to "Freedom of Information Act" ("FOIA") requests. Just to clarify, this law gives individuals the right to access information from the federal government. Wisconsin has its own Public Records Laws which provide open access to records of state and local government. Wisconsin's Public Record law does not require that documents be created, only that existing records be provided that are not exempted from disclosure for statutory and public policy reasons.

#### **XII. Action Items for Administration**

- A. The electronic signatures policy needs to be finalized, training needs to occur, and a document search should be conducted to delete any unauthorized signature files on the County's network.
- B. If they are not otherwise doing so, Department Heads should be instructed to fill out internal travel/training forms, even if they are the ones signing off on their own travel/training.
- C. In order to put this matter to rest, after necessary redactions are made to the "DHS SPARK Program 'P-Card' Final Report" to protect the privacy interests of any clients or employees, the report should be shared with the Finance & Budget Committee, but ONLY with commentary and input from Administrator Schauf, Finance Director Kirk, and DHS Fiscal Manager Gardner on remedial action taken to date.
- D. Explore the structure of the Finance Department and whether DHS Fiscal should be brought under the Finance Director's direct supervision after the new Finance Director is hired.

**XIII. Action Items for County Board Committees**

**A. Committee on Administration:**

- 1) Work with Administration to identify a speaker to conduct Wisconsin Public Record Laws training for the County Board. The training should be scheduled during a regular board meeting to increase the likelihood that Supervisors will be present for the training. This also enables Supervisors who are not present for the meeting to view the meeting recording online.
- 2) Work with Corporation Counsel to conduct or identify a speaker to conduct additional training on **new** Chapter 2.08 of the County Code (Code of Conduct and Conduct Inquiry Board), for all County Board members, which includes fact scenarios to illustrate the various provisions, with the opportunity for County Board members to ask questions.
- 3) Work with the Finance Director and DHS Fiscal Manager to provide training to County Board on finances, including DHS funding and reimbursement.
- 4) Complete Administrator Schauf's performance evaluation consistent with the recommendations above. We do not recommend any disciplinary action be taken against Administrator Schauf. Any deficiencies noted in this report are performance issues.

**B. Human Services Board:**

- 1) Meet with von Briesen to review this report as to findings relating to DHS.
- 2) No required action items.

**C. Finance and Budget Committee:**

- 1) In order to put this matter to rest, after necessary redactions are made to the "DHS SPARK Program 'P-Card' Final Report" to protect the privacy interests of any clients or employees, the report should be shared with the Finance & Budget Committee, but **ONLY** with commentary and input from Administrator Schauf, Finance Director Kirk, and DHS Fiscal Manager Gardner on remedial actions taken to date.

**D. Human Resources Committee:**

- 1) Review and approve Electronic Signatures Policy for inclusion in the County's Employee Handbook.



E. Judiciary and Law Enforcement Committee

- 1) Ensure ECCSO receive training regarding the review of documents containing privileged documents in the course of a criminal investigation.

**XIV. Conclusion**

We believe that we can all agree that this has been a painful and costly learning process. The La Crosse District Attorney expressed hope that by ending the criminal investigation, Eau Claire County could begin to heal. As he noted, “the entire process of this investigation has taken a toll on the morale and working environment of the entire county government.” We are hopeful that by ending the internal investigation that the County will continue to heal as well. We strongly encourage the County Board to move on and move forward in a positive fashion.

**von Briesen & Roper, s.c.**



Mindy K. Dale



Joseph M. Russell



Victoria L. Seltun